

State of Colorado :
County of Gunnison :ss

In the District Court.

.
In the Matter :
of :
The People of the State of Col- :
orado, Plaintiffs, :
vs. :
Alfred Packer, Defendant. :
.

Consolidated Cases Nos. 237, 238,
239, 240 and 241 inclusive.

BE IT REMEMBERED, That the following is a true and correct copy of the record files and proceedings in said Court in the consolidated cases Nos. 237, 238, 239, 240 and 241 inclusive, wherein The People of the State of Colorado were plaintiffs, and Alfred Packer, defendant, lately pending in said District Court on Change of Venue from District Court of Hinsdale County, as the same now appear of file and of record in said District Court of Gunnison County.

No 237.

Indictment.

State of Colorado :
Hinsdale County : ss.
:

In the District Court of the Seventh Judicial District of the state of Colorado, within and for the county of Hinsdale aforesaid, Of the April Term thereof A. D. 1883.

The Grand Jurors chosen, selected and sworn in and for the county of Hinsdale in the state of Colorado, in the name and by the authority of the People of the State of Colorado, upon their oaths, present:-

That Alfred Packer late of the county of Hinsdale aforesaid, on, towit, the first day of March in the year of our Lord One Thousand, Eight Hundred and seventy-four at the county of Hinsdale aforesaid in the ^{but} ~~then~~ Territory of Colorado, in the now state of Colorado- in and upon one Israel Swan, a human being in the peace of the said People then and there being- did then and there unlawfully, willfully, feloniously and of his malice aforethought, make an assault; and that the said Alfred Packer with a certain hatchet which he, the said Alfred Packer in his hands then and there had and held, in and upon the head and forehead of him, the said Israel Swan, did then & there unlawfully, willfully, feloniously and of his malice aforethought strike, beat and wound; then and there giving to the said Israel Swan then and there with the hatchet aforesaid, several mortal wounds and bruises, of which said mortal wounds and bruises, he, the said Israel Swan, on the day and year last aforesaid, at the county aforesaid, died.

And so the Grand Jurors aforesaid, upon their oaths aforesaid, do say, that the said Alfred Packer, him, the said Israel Swan, in manner and form aforesaid, on the day and year last aforesaid, at the county aforesaid, unlawfully, willfully, feloniously & of his malice aforethought did kill and murder: contrary to the form of the statute in such case made and provided and against the peace and dignity of the same People of the State of Colorado.

J. C. Bell District Attorney, Pro Tem., of Hinsdale county, state of Colorado, and within the Seventh Judicial District of said State, for the April Term thereof, A.D.1883.

The witnesses for the People are: A. Hartman, O. D. Loutsenhizer,
Preston Nutter, James Dolan, Enos T. Hotchkiss, Charles Adams,
George Tracy, R. G. McGrew Stephen A. Dole, A. P. Wall, James
+ Downer, Otto Mears Clair Smith, John O. Davis, John McMahon,
H. C. Olney, H. L. Lauter, Hermann Lueders, John McCoy, David Toll,
____ McIntosh, Henry Finley, H. Misgrave.

(Indorsement)

1 - 379- 237 District Court.

The People of the State of Colorado vs. Alfred Packer.

Indictment for the Murder of Israel Swan

A True Bill Geo Wilson Foreman of the Grand Jury.

Filed April 6/83 Arthur P. Cook Clerk

5. Filed May 24, 1886 Jno H McCormick Clerk.

237.

Capias.

State of Colorado :
Hinsdale County :ss

The People of the State of Colorado, to the Sheriff,
Coroner or any Constable of Hinsdale County - GREETING:

WE COMMAND YOU, That you take the body of Alfred Packer
if he shall be found in your County, and safely him keep, so that
he be and appear forthwith before the District Court of said County,
now holden at the Court House in Lake City in said County, to
answer unto a certain Bill of Indictment preferred against him in
said Court by the Grand Jury thereof, and have you then and there
6 this Writ; with an indorsement herein, as to the manner in which
you shall have executed the same.

WITNESS, Arthur P. Cook, Clerk of said
(SEAL) Court, and the seal thereof, at Lake City
District Court
Hinsdale Co. Colorado. this 6th day of April A. D. 1883.

Arthur P. Cook
Clerk

(Indorsement)

2-379 - 237 District Court. Criminal Capias Forthwith.
Hinsdale County. District Court.
The People of the State of Colorado vs. Alfred Packer.
7 The Sheriff will hold the Defendant without Bail. Arthur P. Cook, Clerk

State of Colorado :
Hinsdale County :ss

I duly served the within by bringing into court the within
named Alfred Packer as I am therein commanded.

Clair Smith, Sheriff

Fees- Service
Mileage
Return 1.50

Filed in the District Court, this 6th day of April A.D. 1883.

Arthur P. Cook
Clerk

Filed May 24, 1883.

Jno H McCormick
Clerk

State of Colorado :
 Hinsdale County : ss In the District Court in and for said
 Hinsdale County.

The People of the State of Col-
 orado, Plaintiff,

vs.

Alfred Packer, Defendant.

The Court instructs you in the law of this case, at the

9. request of the People, as follows, to-wit:-

No. One. Murder is the unlawful killing of a human being in the peace
 of the People, with malice aforethought, either express or im-
 plied. The unlawfull killing may be perpetrated by striking,
 poisoning, starving, drowning, stabbing, shooting, or by any
 Refused : other of the various forms, or means by which human nature may
 M.B.Gerry: be overcome and death occasioned.
 Judge :

Express malice is that deliberate intention unlawfully to
 take away the life of a fellow creature, which is manifested
 by external circumstances capable of proof.

Implied malice is when no considerable provocation appears
 10. or when all the circumstances of the killing show an abandoned
 and malignant heart.

The punishment of any person or persons convicted of the
 crime of murder shall be death, only in case, you indicate in
 your verdict of guilty that the killing was deliberate or pre-
 meditated.

No. 2. You are instructed that if the testimony establishes the guilt
 of the defendant beyond a reasonable doubt, it is your duty to
 find him guilty although the testimony is but circumstantial.
 The term "reasonable doubt" does not mean a mere possible doubt;
 11. because everything relating to human affairs and depending on
 moral evidence is open to some possible or imaginary doubt.

A "reasonable doubt" is that state of the case which after
 comparison and consideration of all the evidence leaves the
 minds of the jurors in that condition that they cannot say
 they feel an abiding conviction to a moral certainty of the

truth of the charge. The Jury must be satisfied from the evidence of the guilt of the defendant beyond a reasonable doubt before they can find him guilty; but in order to justify the Jury in finding the defendant guilty it is not necessary
/2, the Jury should be satisfied from the evidence of his guilt beyond the possibility of a doubt.

Although the Jury may think that it is possible that the defendant did not commit the crime, yet, if the jury is satisfied from the evidence of the guilt of the defendant beyond a reasonable doubt, they are bound to find him guilty, whether that guilt is so proved by direct or circumstantial evidence.

If Jurors were to disregard all circumstantial evidence there would be an end to the administration of law and of government.

/3, Although there have been rare cases where innocent persons have been found guilty upon circumstantial testimony, yet it must be remembered, that notwithstanding all that can be urged against it- this kind of testimony in the judgment of those best experienced in the investigation of truth and the administration of justice, is not unfrequently as satisfactory as the positive testimony of individuals.

The eye of omniscience can alone see the truth in all cases; circumstantial evidence is there out of the question; but clothed as we are with the infirmities of human nature -
/4, how are we to get at the truth without the constatenation of circumstances?

6 Nev. 341.

No. 4 The court charges you that in arriving at your verdict
Refused :in this case, among other things, you may consider any flight
M B Gerry:
Judge :of defendant from justice satisfactorily proved; also, defendant's possession of the fruits of crime, if any such possession be proved as a fact without reasonable explanation; also, any remorse on the part of the defendant that may appear from the
/5, evidence herein.

No. 5. The Court charges you that the evidence of verbal con-
fessions of guilt is to be received with great caution, but
M B Gerry:
Judge :when deliberate and fully proven they are among the most ef-
fectual proofs in the law.

1 Greenleaf Ev. #214, 215.

(Indorsement)

18-379 - 237 District Court.
The People of the State of Colorado vs Alfred Packer
Plaintiffs' instructions refused.
Filed April 11/83
Arthur P. Cook Clerk

Filed May 24, 1886,
Jno H. McCormick Clerk

160

No 237.

Verdict of the Jury Dist. Ct. Hinsdale Co.

We the Jury find that the prisoner is guilty of premeditated

murder

D. Edgar
Foreman

(Indorsement)

18-379 - 237 District Court
People of the State vs Alfred Packer
Verdict of the Jury
Filed April 13/83
Arthur P. Cook Clerk

Filed May 24, 1886,
Jno H. McCormick Clerk

17.

Affidavit for Transcript.

State of Colorado :
Hinsdale County :

In District Court
7th Judicial District

.....
Alfred Packer :
ads :
The People of the State of Col- :
orado :
.....

Alfred Packer being duly sworn deposes and says-

18. I am the defendant in the above entitled cause. I am advised by my counsel that there is error in the record of this cause, and am desirous of taking this cause to the Supreme Court of Colorado.

I am unable to bear the expense of the transcript of the record in this cause, and have no means within the State of Colorado, and have no means or property in any other State or Territory except some mining claims in the Territory of Wyoming, which are mere prospects. I therefore ask that I be allowed to have a transcript of the record of this cause made by the Clerk of this Court, and delivered to me or my counsel without payment by me to said Clerk of the legal fees therefor.

19. I am also informed and verily believe that the notes of the stenographer cannot be transcribed and the same be copied from his notes so that a transcript of the record could be made and presented to the Supreme Court of the State of Colorado within twenty five days from this date and therefore ask that the date to be fixed by the Court for the infliction of the death penalty in this case, be extended beyond said period of twenty-five days.

Subscribed & sworn to be-:
fore me this 13th day of :
April A. D. 1883 :
Arthur P. Cook
Clerk

Alfred Packer

(SEAL)
District Court
20. Hinsdale Co Colorado

(Indorsement)
28th 379 - 237 In District Court
Alfred Packer ads The People &c
Affidavit for Transcript &c
Filed April 13/83 Arthur P. Cook Clerk
Filed May 24, 1886, Jno H McCormick Clerk

DEATH WARRANT.

State of Colorado :
 :ss
County of Hinsdale :

The people of the State of Colorado: To the Sheriff of
Hinsdale County, GREETING:

21. WHEREAS, at the April term of the District Court of common
pleas, in and for the county and State aforesaid, begun and holden
at the Court-house, in the Town of Lake City, in the said County, on
the 2nd day of April, in the year of our Lord one thousand eight
hundred and eighty-three, such proceedings were had in said court
upon an indictment therein pending, wherein one Alfred Packer was
charged with the murder of one Israel Swan; that he, the said Alfred
Packer, was duly convicted of the crime of murder.

22. And Whereas, afterward, to wit, on the 13th day of April,
in the year of our Lord one thousand eight hundred and eighty-three,
and of the term of said court aforesaid, by the consideration and
judgment of the said court, he, the said Alfred Packer, was con-
demned to die upon the scaffold on the 10th day of May then next
ensuing.

NOW THEREFORE, we do hereby command you, that you do, on
the 10th day of May instant, between the hours of 10 o'clock in
the forenoon and 3 o'clock in the afternoon if said day, take the
body of him, the said Alfred Packer, from the common jail of Hins-
dale County, wherein he is now confined, and convey him from thence
to some place in your said county, within the corporate limits of
the said Town of Lake City in the county aforesaid, to be selected
by you for his execution, and that you do then and there hang him,
23. the said Alfred Packer, by the neck until he is dead.

AND have you then and there this writ, and make due re-
turn hereof to our said Court in what manner you shall have exe-
cuted the same.

WITNESS, Arthur P. Cook, clerk of the District Court of
the Seventh Judicial District of the State of Colorado, within and
for the County of Hinsdale, and the Seal thereof, at the Town of
Lake City, in said County, this 14th day of April, A.D. 1883.

24. /SEAL/
District Court
Hinsdale Co. Colorado.

Arthur P. Cook Clerk

(over)

State of Colorado :
Hinsdale County :ss
:

By virtue of a certain writ of error issued out of the clerks office of the Supreme Court of the State of Colorado and directed to the Clerk of the District Court of Hinsdale County and State of Colorado a certified copy of which was on the 14th day of May A.D. 1883 served on me by said clerk and of which I acknowledged service thereof. Now by authority of said writ I hereby return this Death Warrant not executed.

Dated at Lake City in said County this 15th day of May A.D. 1883

Clair Smith

Sheriff of Hinsdale County Colo.

(Indorsement)

45-379 - 237 District Court. Hinsdale County.

The people of the State of Colorado, vs Alfred Packer.

Death Warrant.

Filed May 15th/83 Arthur P. Cook Clerk

Filed May 24, 1888 Jno H McCormick Clerk.

Writ of Error.

State of Colorado, :
:ss
SUPREME COURT. :

The People of the State of Colorado To the Clerk of the District Court of Hinsdale County and State of Colorado, GREETING:

26. BECAUSE in the record and proceedings and also in the judgment, in a suit which was lately in the District Court of Hinsdale County, before the Judge thereof, between The People of the State of Colorado, plaintiffs, and Alfred Packer defendant, of a plea of murder manifest error hath intervened, as it is said, to the great injury of the said Alfred Packer, as we are informed; and we being willing that the said error, if any there be, should in due manner be corrected, and full and speedy justice done to the parties aforesaid in this behalf; do command you, if final judgment has been rendered, that you send to the Justices of our Supreme
17. Court, at Denver, in said State, with all convenient dispatch, a true copy of all the pleadings therein, together with a complete and perfect transcript of the record and proceedings of the suit aforesaid, with all things concerning the same, distinctly and openly, under the seal of your Court, together with this writ, so that the said Justices may have them at the place of holding the said Supreme Court, in Denver, on the Fourth day of December, A.D. 1883, that the record and proceedings aforesaid being inspected, they may cause to be done thereupon, for correcting that error, what, of right, according to law, and the rules of said Court, ought to be done.

28. /SEAL Witness, the Hon. William E. Beck, Chief Justice of our
SUPREME said Supreme Court, at Denver, and the seal thereof, this
Court of Eleventh day of May, A. D. 1883
COLORADO James A. Miller
Clerk Supreme Court.

A Transcript of the Record in this cause having been filed in my office with an order endorsed thereon, that the Writ of Error herein be made a SUPERSEDEAS according to law, this Writ of Error is, therefore, made a SUPERSEDEAS, and shall operate accordingly.

29. James A Miller Clerk of Supreme Court.

State of Colorado :
Supreme Court :ss

I James A Miller, Clerk of the Supreme Court of the State of Colorado do hereby certify the foregoing to be a true and complete copy of the original Writ of Error and the endorsements thereon, issued in the certain cause now pending herein, wherein Alfred Packer is plaintiff in Error, and The People of the State of Colorado, are defendants in Error.

30. Witness my hand and the seal of the said Supreme Court hereto affixed at Denver this 11th day of May A D 1883

SEAL James A Miller Clerk Supreme Court of Colorado

(Indorsement)

44-379 - 237 District Court.
Supreme Court. Writ of Error.
Alfred Packer Plff in Error vs. The People etc Defts in Error.

Filed in the District Court this 15th day of May A.D.1883
Arthur P. Cook Clerk

Filed May 24, 1886, Jno H McCormick Clerk.

Petition for a Change of Venue.

State of Colorado : In the District Court of the 7th
County of Hinsdale :ss Judicial District of the state
: of Colorado, within and for the
County of Hinsdale.

The People of the state of Col-
orado, Plaintiff

against

No-379

Alfred Packer Defendant

To the Hon. M. B. Gerry, Judge of the District Court of the 7th
Judicial District of the state of Colorado, at Chambers in the town
of Gunnison,

Your petitioner Alfred Packer, the defendant in the above
entitled cause, respectfully shows to your Honor and alleges.

That at the April term A. D. 1883, of the District Court
within and for the county of Hinsdale, State of Colorado, an indict-
ment was returned against him by the Grand Jury of said County, in
which indictment he was and is charged with the felonious killing
of one Israel Swan in said county on the 1st day of March A D 1874.

That at said term of said court he was arraigned on said
indictment in said court and pleaded not guilty thereto and that
thereupon at said term of said court he was by the said court put
upon trial upon the said indictment as for the murder of the said
Israel Swan and that such illegal proceedings in said cause were
subsequently and at said term of said court had as that he petitioner
was tried by a jury. And the said jury returned into said court
an alleged verdict, illegally finding the petitioner guilty of mur-
der, whereas he was not guilty, nor proven guilty, of any such of-
fence, nor was there any law authorizing his prosecution for or
commission of said supposed offence.

The petitioner further shows and alleges that while he is
entirely innocent of the crime charged in the said indictment, yet
he fears and verily believes that he cannot receive a fair trial
in the said District Court of Hinsdale County, for the reasons,
facts and causes following viz:

That the petitioner shortly before his indictment in said
county of Hinsdale, was apprehended and taken to the said county
for trial that the people of said county were so incensed and pre-

judiced against him that it was almost impossible for the officers
34. of the law to prevent his being murdered, at the hands of ~~xxx~~ of
the citizens and inhabitants of said county.

That by reason of rumors which had long been rife among
the people who lived in the country surrounding the scene of the
alleged homicide with which the petitioner is charged in said in-
dictment almost without exception had been carried to the conclu-
sion in their minds that petitioner had not only killed the said
Israel Swan and some four other persons for their money but from a
craving and vicious desire for human flesh and blood had eaten them
35. up, that these rumors groundless in fact but most harrowing in de-
tails and calculated to excite to the highest pitch the prejudice
and minds of all persons possessing human sympathy had come to be
regarded as a veritable legend by the inhabitants of said Hinsdale
county.

That by reason of this prejudice engendered by rumors,
shortly after the year 1874, and increased by subsequent rumors and
rumors in apparent confirmation of the former rumors, honorable and
conscientious inhabitants of said county had come to a fixed opinion
and belief in their minds that petitioner had in the most horrible
and atrocious manner possible murdered the said Israel Swan, and
four other persons, and that was and is a fixed opinion shared in
36. by all of the inhabitants of said county, and so strong has that
impression and opinion grown among the inhabitants of said county,
that it would be difficult if not impossible to find a single per-
son in said county who has not a fixed opinion that petitioner is
guilty.

Your petitioner further says, that after his trial at the
April term 1883, of the said court in said county, the prejudice
against him on the part of the inhabitants of said county, was ~~as~~
so bitter and so apparent that the officers of the law, including
the Judge of the District Court, deemed it absolutely necessary to
remove the petitioner to the county jail of Gunnison County in order
37. to prevent his being mobbed and murdered at the hands of the inhab-
itants of said Hinsdale County, and petitioner verily believes that
he was removed to said Gunnison county Jail at the instance of the
Judge of said court to prevent mob violence on the part of the in-

habitants of said county; and petitioner further says that when he was removed from the said county of Hinsdale to the county of Gunnison, the officers having him in charge in order to avoid mob violence, did not allow it to be publicly known that he would be removed but kept the same strictly secret deeming it absolutely necessary so to do, in order to avoid mob violence at the hands of
38 the citizens and inhabitants of said county, and as a further precaution against mob violence removed him from said Hinsdale County in the night time to avoid detection.

Petitioner further says, that during the said April term 1883, of said court in said county, and while petitioner was in charge of the sheriff of said county and awaiting his trial on said indictment and after the said trial several threats were frequently made openly and publicly by inhabitants of said county that they would hang petitioner, law or no law, and petitioner says that he would have been mobbed and murdered by the inhabitants of said county
39 had it not been that the officer having him in custody kept a strong guard placed over him constantly.

And Petitioner further says, that his alleged trial and conviction in the said District Court in said county although illegal and void greatly intensified the feeling and prejudice against him on the part of the inhabitants of said county and that the same has since then constantly increased and is still increasing.

That since his alleged trial and conviction and especially since the trial verdict and judgment against him was by the Supreme Court of the state set aside and reversed, many of the inhabitants
40 of said Hinsdale county having become still further prejudiced against the petitioner have openly and publicly threatened as affiant is informed and believes, that if petitioner should ever be returned there for trial, they would hang him law or no law. And petitioner further says, that since apprehension in March 1883, the newspapers published in the said county of Hinsdale, namely the Register and the Silver World have in many articles published in them severely condemned petitioner as a murderer, and declared him guilty of the murder of the said Israel Swan and four other persons.

That the said Silver World immediately after the reversal
41 of said cause by the Supreme court as aforesaid, published an ar-

1

41 ticle concerning petitioner in which it denounced him as a murderer and charged him with having committed a murder in another state namely in the state of Kansas, and petitioner says that said newspapers and each of them had during the time of said several publications and now have, a wide and extensive circulation among the inhabitants of said county and much influence with them and that said publication tended to and did greatly intensify that feeling and prejudice against petitioner on the part of the inhabitants of said county. And the petitioner says that you Hon knows of the ~~tenor~~ tenor and existence of many of the said publications, having read them, and petitioner says that since the day of his apprehension in March 1883 to the present time the prejudice existing against him on the part of the inhabitants of said county has constantly increased and is still increasing what from ~~time~~ that time to this he has been confined in jail and has therefore been unable to obtain information of many facts which might be scited as he verily believes showing the prejudice against him on the part of the inhabitants of said county, that during the whole of said time he has had no money or means of any kind to pay the traveling expense of any one to

43 visit Hinsdale county and acquire knowledge of many facts which he verily believes do exist, and petitioner says that he has a perfect defense as he verily believes and as he is advised by his counsel if he can have a fair and impartial hearing in said cause.

44 And your petitioner further says, that while he regards your Honor as an upright and conscientious Judge, that he fears and verily believes that you are prejudiced against him and that he cannot for that reason have a fair trial before you as Judge of said court because he says that at the time of his trial as aforesaid in the District court of Hinsdale county and for many years prior thereto you were a resident and inhabitant of said Hinsdale county and had then and now have many friends and acquaintances among the inhabitants of said county and petitioner verily believes that it would have been almost if not quite, impossible for you to not in some respect and to some extent share in the prejudice and belief of petitioners guilt existing on the part of your neighbors friends and acquaintances among the inhabitants of said county, and petitioner verily believes that you regard him as guilty of the

offense charged in said indictment, and while petitioner believes that your honor would endeavor conscientiously to give him a fair
45 and impartial trial in said cause and the several matters connected therewith, being mindful of the frailty of one man however just honest and conscientious he fears that your prejudice if such you have might unbeknown to yourself swerve or bias your judgment upon some important question involving the petitioners rights and liberty for years, your petitioner further says that if prior to his trial and conviction as herebefore stated you formed no conclusions or opinion as to the petitioners guilt or innocence, yet he verily believes that the evidence elicited at the trial and the verdict of the jury greatly influenced your mind against petitioner, and while
46 your Honor can alone estimate determine the existence or non existence of prejudice in your mind against petitioner he sincerely prays that you may render in his favor any doubts you may have in the premises.

And petitioner prays that the venue of said cause be changed to a county of some other Judicial District of the state and for such other orders in the premises as may be just and proper.

Brown and Sapp
Attys for Petitioner

Alfred Packer

State of Colorado :
County of Gunnison :ss

47 Alfred Packer being by me first duly sworn according to law upon his oath says, I am the petitioner in the above entitled cause. I have heard read the foregoing petition in said cause and know the contents thereof and the same is true of my own knowledge except as to the matters therein stated on information and belief and as to those matters I believe it to be true.

Subscribed and sworn to : Alfred Packer
before me this 8th day :
of March 1886 :

Marion S. Wallis clerk of Dist Court in and for Gunnison County, Colorado. By J.H. McCormick Deputy

/SEAL/
Dist Court Gunnison Co Colo

48 State of Colorado :
Hinsdale County :ss

I Thomas Shanly Clerk of the District Court of the 7th Judicial District for said county in said state, do hereby certify the foregoing to be a full true and correct copy of the Petition for change of venue in the above and foregoing entitled cause filed in my office on the 11th day of March 1886

Witness my hand and the seal of said court at Lake City in said County this 8th day of April 1886

/SEAL/
District Court
Hinsdale Co. Colorado
Thos Shanly Clerk

49 (over)

(Indorsement)

237

No. 379

In District Court Hinsdale County Colo.

The People of the State of Colorado vs Alfred Packer

Copy of Petition

Filed May 24, 1886, J H McCormick Clerk.

Remittitur from Supreme Court.

State of Colorado, ss.

In the Supreme Court thereof.

The People of the State of Colorado:

To the District Court of Hinsdale County, and State of Colorado, GREETING:

50. WHEREAS, lately in the District Court of Hinsdale County, State aforesaid, in a certain cause therein pending, wherein The People of the State of Colorado were Plaintiffs, and Alfred Packer was Defendant, the judgment of said District Court in said cause rendered was against the said defendant

And WHEREAS, the said cause was brought into our SUPREME COURT of the State of Colorado, by Writ of Error to said District Court:

And WHEREAS, at the Special October Term of our Supreme Court, in the year of our Lord one thousand eight hundred and eighty-five the said cause came on to be heard before our said Supreme Court
57. on the 30th day of October A. D. 1885 (the same being one of the juridical days of said term) the following proceedings were had and entered of record in said cause, to wit:

"Alfred Packer plaintiff in error	:	
vs	:	Error to District Court
No. 1198	:	of Hinsdale County.
The People of the State of Colorado:	:	
defendants in error	:	

At this day this cause coming on to be heard, as well upon the transcript of proceedings and judgment had in said District Court in and for the County of Hinsdale as also upon the matters assigned for error herein; and the same having been heretofore argued by counsel and submitted to the consideration and judgment of
52. the Court, and it appearing to the Court that there is manifest error in the proceedings and judgment aforesaid of said District Court. It is therefore CONSIDERED AND ADJUDGED BY THE COURT that the judgment aforesaid of said ----- Court be, and the same is hereby reversed, annulled, and altogether held for naught; and that this cause; and that the said motion to discharge the said plaintiff in error be and same is hereby denied; And that this cause be remanded to said District Court for further proceedings according to law. IT is further CONSIDERED AND ADJUDGED BY THE COURT that said plaintiff in error do have and recover of and from said de-
53. fendants in error his costs in this behalf expended, to be taxed.

And let the opinion of the Court filed herein be recorded."

NOW, THEREFORE, this cause is remanded to you, the said District Court, in and for the County of Hinsdale and State aforesaid, that such further proceedings may be had in said cause as shall conform to the judgment of this Court, entered as aforesaid, as also with the opinion filed therein.

/SEAL/
Supreme Court
State of Colorado

Witness the Honorable William E. Beck, Chief Justice of our Supreme Court, and the Seal thereof, affixed at my office, in the city of Denver, this Sixth day of July

A.D.1888

James A. Miller
Clerk Supreme Court.

(Indorsement)
No. 1198
In the Supreme Court, State of Colorado.
Remittitur
Packer plff in error vs. People defts in error

Filed July 8th 1888 Thos Shanly Clerk

Filed Jul 12 1888 John H. McCormick Clerk
Rec J 1 p 157

Transcript of Record from Dist. Court of Hinsdale Co.

UNITED STATES OF AMERICA

State of Colorado :
Hinsdale County :ss In District Court, April Term, A.D.1883

PLEAS before the Honorable Melville B. Gerry, Judge of
the District Court of Hinsdale County, in and for the Seventh
Judicial District, in the State of Colorado, at a term thereof begun
and held at the Court House, in the Town of Lake City in said County,
on the Fifth Monday (being the Second day) of April in the year of
our Lord one thousand eight hundred and eighty-three and of the In-
dependence of the United States the one hundred and Seventh

Present, Honorable Melville B. Gerry Judge.

Clair Smith Sheriff

Attest, Arthur P. Cook Clerk & J. C. Bell who was duly appointed
District Atty pro tem in the absence
of that officer.

1883
Court Record 1
Page 503
This day appears at the bar of this Court the Grand
Jury heretofore impaneled and sworn and present their
certain bill of indictment against Alfred Packer for
murder, endorsed, "A true bill, Geo Wilson Foreman
of the Grand Jury"

Same day. same cause No 379.

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Court Record 1
Page 504
The People of the State of Colorado:
vs : 379
Alfred Packer :

57
This cause coming on for hearing upon the
defendants motion to quash the indictment herein,
and the defendant being present in his own proper
person and by his attorneys Heims & Brown & Gullett
& Goudy, the Court having heard the argument of
Counsel and being fully advised in the premises,
overrules the said motion. To which ruling of the
Court the defendant by his attorneys Heims &
Brown, & Gullett & Goudy excepts.

Same cause. same day.

Record 1
Page 504
The People of the State of Colorado:
vs : 379. Indictment
Alfred Packer : for Murder.

58
Now comes the prosecuting attorney on be-
half of the State of Colorado and the defendant being
brought into Court in the custody of the sheriff,
and arraigned upon said indictment, for plea thereto,
saith he is "Not Guilty", and puts himself upon the
country, and the prosecuting attorney doth the like

Record 1.
Page 504

Same day, same cause

The People of the state of Colorado:
vs :379
Alfred Packer :

This cause coming on for hearing upon the defendants plea to the jurisdiction of the Court then and there filed, and the Plaintiffs demurrer to said plea, the defendant being present in his own proper person and by his attorneys Heims & Brown & Gullett & Goudy, and the court having heard the argument of counsel and being fully advised in the premises takes the same under advisement.

Same cause, April 7th 1883

The People of the state of Colorado:
vs : 379
Alfred Packer :

This cause coming on for hearing the defendant being present both in person and by his counsel Heims & Brown, upon plaintiffs demurrer to the plea to jurisdiction filed herein, the court having heard the argument of counsel and being fully advised in the premises, overrules the said demurrer, and orders that the Plaintiff file herein its replication to the defendants plea to the jurisdiction of the Court.

Same cause April 7th 1883.

The People of the state of Colorado:
vs :379
Alfred Packer :

This cause coming on for hearing the defendant being present both in person and by his counsel Heims & Brown, on defendants motion for continuance then and there filed, the Court having heard the argument of counsel and being fully advised in the premises, over-rules the said motion. To which ruling of the Court the defendant by his attorneys Heims & Brown, excepts.

Record 1
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page 505

Record 1
page 506-7

Same cause April 9th 1883.

The People of the state of Colorado:
vs :379
Alfred Packer :

62
Now comes the District Attorney Pro Tem.
on behalf of the People of the state of Colorado, and
the defendant both in person and by his counsel Heims
& Brown and A.J. Miller, also come the following
named persons as jurors, towit: J C Dubois, David
Edgar, Charles Fenstermacher, G.W. Wood, Patrick
McNarry, John Henderson, Robert Mitchell, H C Houston,
N.P. Meserve, Henry Snyder, Herman Mayers, and J. P.
Fitzworth who were duly impaneled and sworn accord-
ing to law, and the said jury having heard the evi-
dence adduced in part, this cause is adjourned until
tomorrow April 10th 1883, at nine O'clock AM.

Same cause April 10th 1883

Record 1
p 507

The People of the state of Colorado:
vs :379
Alfred Packer :

63
Now comes again the District Attorney Pro-
Tem, on behalf of the People of the state of Colorado,
and the defendant both in person and by his counsel
Heims & Brown and A.J. Miller, also comes the jury
heretofore impaneled and sworn, and the jury having
heard the evidence adduced in part, this cause is
adjourned until tomorrow April 11th 1883, at nine
O'clock AM.

Same cause April 11th 1883

Record 1
p 507

The People of the state of Colorado:
vs :379
Alfred Packer :

64.
Now comes again the District Attorney Pro-
Tem. on behalf of the People of the state of Color-
ado, and defendant both in person and by his counsel
Heims & Brown and A J Miller & Frankey, also comes
the jury heretofore impaneled and sworn and the
trial proceeded, and the jury having heard the evi-
dence adduced, the charge of the court, and the ar-
gument of counsel in part, this cause is adjourned

Record 1
p. 508

until tomorrow April 12th 1883. at nine O'clock AM.

Same cause April 12th 1883

The People of the state of Colorado:
vs :379
Alfred Packer :

Now comes again the District Attorney pro-
tem, on behalf of the People of the state of Colorado,
and the defendant both in person and by his counsel
Heims & Brown & Miller & Frankey, also comes the
jury heretofore impaneled and sworn and the trial
proceeded. And the jury having heard the argument
of counsel retired to their room for deliberation
in charge of George Sullivan who was duly sworn as
bailiff.

Same cause April 13th 1883.

Record 1
p 509

The People of the state of Colorado:
vs. :379
Alfred Packer :

Now comes again the District Attorney pro-
tem. on behalf of the People of the state of Colorado,
and the defendant both in person and by his counsel
Heims & Brown, & Miller & Frankey, also comes the
jury heretofore impaneled and sworn, with their
verdict in writing signed by their foreman, and say,
"We, the jury in the above entitled cause, find the
above named defendant, Alfred Packer, guilty as
charged in the indictment, and that the killing
charged in said indictment was premeditated. D Edgar
Foreman." whereupon the defendant by his counsel
Heims & Brown and Miller & Frankey demands that the
said jury be polled, whereupon each juror respect-
ively as his name was called, arose to his feet and
was polled by the court, each juror declaring this
to be his verdict, whereupon the defendant by his
counsel Heims & Brown and Miller & Frankey excepts
to that part of the said verdict which indicates
that the said killing was premeditated.

Record 1
p 511

Same cause, same day

The People of the state of Colorado:
vs : 379
Alfred Packer :

68
This cause coming on for hearing, the defendant being present both in person and by his counsel Heims & Brown and Miller & Frankey, on defendants motion in arrest of judgment, the court having heard the argument of counsel and being fully advised in the premises, over-rules the said motion, to which ruling of the court the defendant by his counsel Heims & Brown and Miller & Frankey, excepts.

Same cause, same day.

Record 1
p 511-12

The People of the state of Colorado:
vs : 379
Alfred Packer :

69
70.
This cause coming on for hearing the defendant being present both in person and by his counsel Heims & Brown and Miller & Frankey, on defendants prayer for an order of the court, directing the clerk of this court to make out and furnish, to this defendant, a transcript of all the pleadings and proceedings herein, and that the costs thereof be paid by the county of Hinsdale, and it being shown to the court that the defendant is an indigent person unable to pay the costs of the said transcript, The Court have duly considered the matter upon the consent of the counsel for the people J.W.Mills, orders and directs that the clerk of this court make out and certify a transcript of all the pleadings and proceedings in this cause necessary to perfect an appeal to the Supreme Court of this state on a writ of error on behalf of the defendant, and that the cost of the said transcript be paid by the County of Hinsdale, and the court fixes the time for filing the bill of exceptions in this cause 30 days from this date.

Record 1
p 512

Same cause, same day.

The people of the state of Colorado:
vs : 379
Alfred Packer :

71. This cause coming on for hearing upon the verdict of the jury heretofore rendered in this cause, the defendant being present both in person and by his counsel Heims & Brown and Miller & Frankey, the District Attorney pro-tem also appearing on behalf of the people of the state of Colorado, the court then and there proceeded to render judgment upon said verdict, and whereas the said defendant Alfred Packer not being able to give any good reason why judgment and sentence should not be passed herein in accordance with said verdict, wherefor it is adjudged and considered by the court that the said Alfred Packer be and he is hereby condemned to die upon the scaffold on the 19th day of May A D 1883, within the corporate limits of the Town of Lake City County aforesaid, between the hours of 10 O'clock AM and 3 O'clock PM of said day, and it is further considered, ordered and adjudged that the defendant Alfred Packer be removed from this Court House to the jail of Hinsdale County, state of Colorado and there confined until the ~~day~~ 19th day of May A D 1883, and that on said 19th day of May A. D. 1883, the said Alfred Packer be taken from hence by the sheriff of said Hinsdale County to a place of execution prepared for this purpose within the limits of said town in the said county of Hinsdale, at the time aforesaid, then and there by said sheriff to be hung by the neck until dead, dead, dead, and that a death warrant issue hereon to the sheriff of said county for the execution of this judgment and sentence.

72.

73.

42.

State of Colorado : In the District Court within and for the
County of Hinsdale

.....
The People of the state of Col-
orado, Plaintiff
vs No. 379
Alfred Packer Defendant
.....

Before the Hon. M. B. Gerry, Judge of the seventh Judicial
District of the state of Colorado, at chambers, in Gunnison, in
said District,

74 And now on this day before the Judge of said District
Court, at Chambers at Gunnison, The petition of Alfred Packer the
defendant in the above entitled cause, for a change of venue in
said cause coming on to be heard, the people neing represented by
H M.Hogg District attorney, and the defendant being present in per-
son, and by Brown & Sapp his attorneys, The petition of the said
defendant was argued by the respective counsel for the people and
the defendant, and was submitted to the said Judge, and the said Judge
after due examination of the same, found the same to be true, and
sufficient in law as well, on account of the prejudice of the said
75 Judge, as of the prejudice of the inhabitants of said Hinsdale
County. And it is therefore ordered and adjudged, that the venue
of the said cause be changed from the said County of Hinsdale, to
the County of Gunnison in the said Judicial District.

And it is further ordered, that in the event no judge of
any other Judicial District of said state, can be procured to hear
and try the said cause in said Gunnison County, then the venue of
the said cause shall be changed to some county of another Judicial
District of said state to be hereafter designated by the District
Court of said Gunnison County, or the Judge thereof in vacation.

76. V And it is ordered that the clerk of the District Court of
Hinsdale County, make a full transcript of the record and proceed-
ings in the said cause, and of the defendants petition, and of this
order, and transmit the same together with all papers filed in said

cause, including the indictment &c to the Clerk of the District Court of said Gunnison County.

And it is further ordered that any motions filed in said cause by defendant, shall be filed on or before the 19th day of July A D 1886.

Done at Chambers in Gunnison this 9th day of March A D 1886

M.B.Gerry
District Judge.

State of Colorado :
 : ss
Hinsdale County :

I hereby certify the foregoing to be a full, true and correct copy of the order changing the venue in the above entitled cause, from Hinsdale County to Gunnison County, in said State, as the same appears of record in the Court Journal kept in my office.

Witness my hand and the seal of the District Court at Lake City in said County and state this 6th day of April A D 1886.

Thos Shanly
Clerk of the District Court.
/SEAL/
District Court
Hinsdale Co. Colorado

I, Thomas Shanly Clerk of the District Court of Hinsdale County, in the State aforesaid, do hereby certify the above and foregoing to be a true, perfect and complete copy of the proceedings as taken from the Court record in a certain cause No-379, pending in said Court, wherein The People of the state of Colorado were Plaintiffs and Alfred Packer was Defendant.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Court, at Lake City this 6th day of April A. D. 1886

Thos Shanly Clerk
/SEAL/
District Court
Hinsdale Co. Colorado

(Indorsement)
237 Transcript of Proceedings in Suit.
District Court, Hinsdale County, April Term, 1886.
In the Matter of The People vs. Alfred Packer.

Filed May 24, 1886 Jno H McCormick Clerk.

Motion and Affidavit for Discharge.

State of Colorado : In the District Court of the Seventh
County of Gunnison :ss Judicial District of the State of
Colorado within and for the County of
Gunnison.
Change of Venue from Hinsdale County.

80 The People of the State of Col. Original No 237
orado, Plaintiff, . Docket No 379.
against . Indictment for Manslaughter.
Alfred Packer Defendant .
.....

Now on this day comes Alfred Packer defendant in above
entitled action in his own proper person and by Brown and Sapp his
Counsel and prays the Court that of the indictment in said cause
he be discharged and allowed to go hence without day for the reasons
set forth in said defendants affidavit hereunto annexed and filed
in support hereof And for reasons appearing upon the record and
from the papers and proceedings in said cause.

81 Brown and Sapp A G Packer
Attorneys for Defendant Defendant

State of Colorado : In the District Court of the Seventh
County of Gunnison :ss Judicial District of the State of
Colorado within and for the County of
Gunnison.
Change of Venue from Hinsdale County.

.....
The People of the State of Col. Original No 237
orado Plaintiff . Docket No 379
against . Indictment for Manslaughter.
Alfred Packer Defendant .
.....

State of Colorado :
County of Gunnison :ss

Alfred Packer being by me first duly sworn according to
law upon his oath says

82. That he is the defendant in the above entitled action and
that he makes this affidavit in support of his motion for discharge
filed in said cause.

And affiant says that at the April Term A D 1883 of the
District Court held within and for the County of Hinsdale State of
Colorado an indictment was returned against him by the Grand Jury
of said County charging him with the unlawful and felonious killing

of one Israel Swan in said County in the month of March A D 1874

That immediately after the returning of said indictment he affiant was arraigned upon the same and pleaded not guilty thereto

83 That ever since said indictment was returned against him he has been by the officers of the law returned and held in custody to answer to the criminal charge contained in said indictment, and during the whole of that time a period of more than three years, he has been kept in prison and confinement by reason of the said indictment and has never been admitted to bail upon the said indictment or the charge therein contained.

84 That since the said indictment was returned against him as aforesaid, there have been five regular terms of the said District Court convened and held within and for the said County of Hinsdale exclusive of the term at which the said indictment was returned and exclusive of the last April term thereof A D 1880, namely, the August term 1883, the April and August terms 1884 and the April and September terms 1885.

85 That during each and all of the said terms of Court the said action and indictment were pending against defendant in said District Court of said County and that at either of said terms of Court the affiant could have been tried upon the said indictment That he affiant has not been tried upon the said indictment and that the prosecution has not at any time attempted to bring him to trial upon the said indictment for the offense charged therein That the delay has not happened on the application of affiant and he has in no manner been the cause of the delay nor has he contributed to the cause thereof

86 That he affiant could have been tried upon the charge presented by the said indictment at the term of said Court at which the same was returned namely the April Term thereof A D 1883 or at any subsequent term thereof save and except the April Term 1886. That the District Court of said Hinsdale County was during all of the terms aforesaid a Court of competent Jurisdiction and possessed of exclusive Jurisdiction to try affiant upon the said charge.

And affiant says, that until after the month of October A D

26

1885 the said District Court and the officer of the law having him charge and custody denied him the right to give bail for his appearance to answer to the said charge, and that after the time last aforesaid and after bail was fixed by the said Court he has been wholly unable to give the same, and hence has continued to remain in custody and in prison and is still in custody and in prison upon the charge contained in said indictment and is restrained of his liberty. And affiant says that at and the April term 1883 of the said District Court of Hinsdale County such proceedings were had as that he was arraigned and tried as for murder under said indictment but affiant says that he verily believes that he was not in or by the said indictment charged with the crime of murder and the whole proceeding was and is void and he remains in the same position with reference to the said indictment as though no such trial or proceeding had ever been had

Subscribed and sworn to : A G Packer
before me this 20th day :
of July 1886, :
John H McCormick
Clerk

/SEAL/
District Court
Gunnison County, Colo.

(Indorsement)

No 879 The District Court of Gunnison County
The People &c Plaintiff vs. Alfred Packer Defendant
Motion and Affidavit for discharge

Filed July 20, 1886 John H McCormick Clerk

Brown and Sapp
Attorney for dft

Affidavit for Witnesses vs.

State of Colorado : In the District Court of the Seventh
Judicial District within and for the
County of Gunnison.

.....
The People of the State of
Colorado

against

On change of venue from Hinsdale
County.

Alfred Packer Defendant.
.....

Gunnison County :ss

Alfred Packer being first duly sworn says, that he is
the defendant in this cause. That he has no money or means of
any kind, and is actually unable to pay the fees. or the fees for
subpoenaing witness in his behalf in the trial of this cause.

90 Deponent further says that he had fully and fairly stated
to Messrs Brown & Sapp all of the facts in this cause and that he
is advised by his said Attorneys after said statement so made that
he has a good defense in this action upon the merits thereof, and
as he verily believes. Deponent further says that he is not guilty
of the crimes charged against him in the various indictments in
this consolidated cause.

91 Deponent further says that one O. D. Loutzenhouser now
a resident of the Town of Montrose in this Judicial District, and
as deponent is informed now at Montrose is a material & necessary
witness in behalf of this deponent upon the trial of this cause,
that upon a former trial of this cause the said witness was subpoe-
naed and used by the People as their own witness after which said
witness was put upon the witness stand by and in behalf of Deponent.

92 And Deponent further says that upon the former trial of
said cause the said Loutzenhouser testified, and will again testify
that at the time of the alleged Homicides in this cause, he was
travelling in Colorado, near the same Locality where the defendant
was, and at the same time of year when said alleged Homicide was
committed. That he the said witness, at said time & said place
came near starving to death, by reason of not having with him suf-
ficient food, and not being able to find or kill game of any kind
upon which to subsist. And that he will also testify that at said
time and in said place there was no game of any kind to amount to
anything.

And Deponent further says that the above testimony is material to deponent on the trial hereof for the following reason, i.e. That it will appear upon this trial that deponent did kill one Wilson Bell, that deponent contends that he so killed him in self defense, that all of the parties who were with deponent were starving to death, that they had & could procure nothing to eat in the way of game, that said Wilson Bell had by reason of said starvation become deranged in his mind and was crazy. That said Wilson Bell while so crazy took the life of the other members of said party, towit the other persons, for the killing of whom deponent is indicted and now on trial.

That deponent desires said Testimony to establish said facts about said game for the reason that the the former trial of this cause the People, attempted to establish by witnesses who are now present as witnesses on the present trial that there was plenty of game in said Country at said time, that deponent and his said Companions were not in a starving condition, that said Bell was not insane, but that deponent killed all of said persons, wilfully, maliciously, without cause or justification, and for the sole purpose of Robbing them.

That deponent expects the People in this trial will pursue the same course, & will introduce the same testimony, and that deponent ought to be prepared to meet it.

Wherefore deponent prays that, by order of this Court a subpoena be issued & served upon said witness to appear forthwith as a witness for defendant on the trial hereof.

Subscribed & sworn to : Alfred Packer
before me this 31st day :
of July 1888 :

J.H.McCormick Clerk
By George Simmonds Deputy.

(SEAL)
District Court
Gunnison County, Colo.

(Indorsement)

The People vs Alfred Packer
Affidavit to procure witness
Upon filing this let subpoena issue William Harrison Judge

Filed July 31st 1888 J H McCormick Clerk By George Simmonds Deputy

Indistinct.

State of Colorado :
 :ss
County of Hinsdale :

In the District Court of the Seventh Judicial District
of the State of Colorado, within and for the County of Hinsdale
aforesaid, at the April Term thereof A. D. 1883.

The Grand Jurors chosen, selected and sworn in and for the County of Hinsdale, in the State of Colorado, in the name and by the authority of the People of the State of Colorado, upon their oaths, present:

That Alfred Packer, late of the County of Hinsdale aforesaid, on, to wit, the first day of March in the year of our Lord One Thousand Eight Hundred and Seventy-four, at the County of Hinsdale aforesaid in the then Territory but now being said State of Colorado aforesaid, in and upon one Shannon Wilson Bell a human being in the peace of said people then and there being did then unlawfully, ~~wikfully~~ willfully, feloniously and of his malice aforethought kill and murder Shannon Wilson Bell aforesaid contrary to the form of the Statutes in such case made and provided, and against the peace and dignity of the same people of the State of Colorado.

J. C. Bell, District Attorney Pro Tem. of Hinsdale County, State of Colorado, & within the 7th Judicial District of said State, for the April term thereof A. D. 1883. /

The Witnesses of the People in said prosecution are as follows, to wit:

H. F. Lauter,
Hermen Lueders,
A. Hartman,
Preston Nutter,
Enos T. Hotchkiss,
George Tracy,
Stephen A. Dole,
James Downer,
Clair Smith,
John McMahon,
John McCoy.

McIntosh,
O. D. Loutsenhizer,
James Dolan,
Charles Adams,
R. G. McGrew,
A. P. Wall,
Otto Mears,
John O. Davis,
H. C. Olney
David Toll,
Henry Finley,
Hesse Musgrave.

I, Arthur P. Cook, Clerk of the District Court of Hinsdale County, in the State aforesaid, do hereby certify the above and foregoing to be a true, perfect and complete copy of the indictment and list of Witnesses in a certain cause now pending in said Court, wherein the People of the State of Colorado is plaintiff, and Alfred Packer is Defendant.

In Witness Whereof, I have hereunto set my hand and affixed
the Seal of said Court, at Lake City, this 7th day of April, A.D. 1883.
/SEAL/ Arthur P. Cook
District Court Clerk
Hinsdale Co. Colorado

#380 - 238

The People of the State of Colorado vs Alfred Packer
Indictment for Murder, A True Bill, Geo Wilson, Foreman of the.
Grand Jury

Filed May 24, 1886. Jno H McCormick Clerk.

UNITED STATES OF AMERICA.

State of Colorado :
 :ss In District Court, April Term, A.D.1883.
 Hinsdale County, :

101
 PLEAS before the Honorable Melville B. Gerry, Judge of the District Court of Hinsdale County, in and for the seventh Judicial District, in the State of Colorado, at a term thereof begun and held at the Court House, in the Town of Lake City in said County, on the First Monday (being the Second day) of April in the year of our Lord one thousand eight hundred and eighty-three and of the Independence of the United States the one hundred and seventh.

Present, Honorable Melville B. Gerry Judge.

Clair Smith Sheriff.

Attest, Arthur P. Cook Clerk J. C. Bell Dist Atty pro tem

102.
 April 2 The following proceedings were had and recorded in the cause. The People of the state of Colorado:

vs : No 380.
 Alfred Packer :

It appearing to the court that the District Attorney of the 7th Judicial District is not present at this term of this court, the court appoints J. C. Bell to act as District Attorney pro tem.

Same cause

April 7th This day appears at the bar of this court the Grand Jury heretofore impaneled and sworn and present their certain bill of indictment against Alfred Packer for the murder of one Shannon Wilson Bell, Endorsed "A True Bill, Geo Wilson Foreman of the Grand Jury".

State of Colorado - In the District Court within and for the County of Hinsdale.

103.
 The People of the state of Colorado:
 Plaintiff :
 vs : 380.
 Alfred Packer Defendant :

Before the Hon. M. B. Gerry, Judge of the seventh Judicial District of the State of Colorado, at chambers, in Gunnison, in said District.

104.
 And now on this day before the Judge of said District Court, at chambers, at Gunnison, the petition of Alfred Packer the defendant in the above entitled cause, for a change of venue in said cause coming on to be heard, the people being represented by H. M. Hogg District Attorney, and the defendant being present in person, and by Brown & Sapp his attorneys. The petition of the said defendant was argued by the respective counsel for the people

and the defendant, and was submitted to the said Judge, and the said Judge after due examination of the same, found the same to be true, and sufficient in law as well, on account of the prejudice of the said Judge, as of the prejudice of the inhabitants of said Hinsdale County, and it is therefore ordered and adjudged, that the venue of the said cause be changed from the said County of Hinsdale to the County of Gunnison in the said Judicial District.

105 And it is further ordered, that in the event no Judge of any other Judicial District of said state, can be procured to hear and try the said cause, in said Gunnison County, then the venue of said cause shall be changed to some county of another Judicial District of said state, to be hereafter designated by the District Court of said Gunnison county, or the Judge thereof in vacation.

And it is ordered, that the clerk of the District Court of Hinsdale county, make a full transcript of the record and proceedings in the said cause, and of the defendants petition, and of this order, and transmit the same together with all papers filed in said cause, including the indictment &c to the clerk of the District Court of said Gunnison County.

106 And it is further ordered, that any motions filed in said cause by defendant shall be filed on or before the 19th day of July A D 1886.

Done at chambers in Gunnison this 9th day of March A D 1886
M. B. Gerry District Judge.

State of Colorado :
Hinsdale County : ss

I Thomas Shanly Clerk of the District Court in and for the seventh Judicial District in said County. do hereby certify the above and foregoing to be a true, perfect and complete copy of the Court order changing the venue in the cause people vs Packer, No 380, as the same appears of record in the Court Journal kept in my office.

107 Witness my hand and seal of said Court at Lake City in said county this 6th day of April A D 1886.

/SEAL/
District Court
Hinsdale Co. Colorado
Thos Shanly Clerk

State of Colorado : In the District Court of the 7th Ju-
County of Hinsdale : ss dicial District of the state of Col-
: orado, within and for the County of
Hinsdale.

The People of the state of Colorado:
Plaintiff :

against : No 380.

168, Alfred Packer Defendant :

To the Hon M. B. Gerry Judge of the District Court of the seventh
Judicial District of the State of Colorado, at chambers in the
town of Gunnison.

109 Your petitioner Alfred Packer the defendant in the above
entitled cause respectfully shows to your Honor and alleges, That
at the April Term A D 1883, of the District Court within and for
the County of Hinsdale state of Colorado an indictment was returned
against him by the Grand Jury of said county in which indictment he
was and is charged with the felonious killing of one Shannon Wilson
Bell in said county, on the 1st day of March A D 1874, and that at
said term of said court he was arraigned upon said indictment and
pleaded not guilty thereto.

110 That at said term of said court the Grand Jury of said
County also returned against petitioner ~~from~~ four other indictments
in each of which he was and is charged with the felonious killing
feloneous killing of a person therein named, on the said 1st day
of March A. D. 1874, and in one of which he was charged with the
feloneous killing of one Israel Swan on the said day and in the
County aforesaid. That at said term of said Court he was ar-
111 raigned on said indictment charging him with the felonious killing
of the said Israel Swan and pleaded not guilty thereto, and that
thereupon at said term of said court he was by the said court put
upon trial upon the said last named indictment as for the murder
of the said Israel Swan and that such ~~alleged~~ illegal proceedings
in said cause were subsequently and at said term of said court had,
as that he petitioner was tried by a Jury and the said Jury returned
into said court an alleged verdict illegally finding the petitioner
guilty of ~~any~~ murder, whereas he was not guilty nor proven guilty
of any such offense, nor was there any law authorizing his prose-
112 cution for or conviction of said supposed offense.

112. The petitioner further shows and alleges that while he is entirely innocent of the crime charged in said indictment last named, or charged in any or either of said indictments, yet he fears and verily believes that he cannot receive a fair trial in said District court of Hinsdale county for the reasons facts and causes following. That he petitioner shortly before his indictment in said County of Hinsdale was apprehended and taken to the said County for trial on the charge of feloniously killing the persons named in the said several indictments. That the people of said county were so incensed and prejudiced against him that he was almost impossible for the officers of the law to prevent his being murdered, at the hands of the citizens and inhabitants of said county. That by reason of rumors which had long been rife among the people who lived in the country surrounding the scene of the alleged homicides with which the petitioner is charged in said several indictments, almost without exception had been carried to the conclusion in their minds that petitioner had not only killed the persons mentioned in said several indictments including the said Shannon Wilson Bell for their money, but from a craving and vicious desire for human flesh and blood, had eaten them up. That these rumors groundless in fact but most harrowing in detail and calculated to excite to its highest pitch the prejudice and enmity of all persons possessing ~~human~~ human sympathy had come to be regarded as a veritable legend by the inhabitants of said Hinsdale County. That by reason of this prejudice engendered by rumors shortly after the year 1874, and increased by subsequent rumors and rumors in apparent confirmation of the former rumors, honorable and conscientious inhabitants in said County had come to a fixed opinion and belief in their minds that petitioner had in the most horrible and atrocious manner possible murdered the said Bell and other persons mentioned in the said several indictments and that was a fixed opinion shared in by all of the inhabitants of said County, and so strong has that impression and opinion grown among the inhabitants of said County that it would be difficult if not impossible to find a single person in said County who has not a fixed opinion that petitioner is guilty of the charges preferred by each and all of said indictments.

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115 Your petitioner further says that after his trial at the April term 1883, of the said court in said County, the prejudice against him on the part of the inhabitants of said County was so bitter and so apparent that the officers of the law including the Judge of said District Court deemed it absolutely necessary to remove the petitioner to the County Jail of Gunnison County in order to prevent his being mobbed and murdered at the hands of the inhabitants of said Hinsdale County, and petitioner verily believes that he was removed to said County Jail of Gunnison County at the instance of the Judge of said court to prevent mob violence on the part of the inhabitants of said County, and petitioner further say
116 that when he was removed from the said County of Hinsdale to the County of Gunnison, the officers having him in charge in order to avoid mob violence did not allow it to be publicly known that he would be removed but kept the same strictly secret deeming it absolutely necessary so to do, in order to avoid mob violence at the hands of the citizens and inhabitants of said County, and as a further precaution against mob violence removed him from said Hinsdale County during the night time to avoid detection.

117 Petitioner further says that during the said April Term 1883, of said court in said County and while petitioner was in charge of the sheriff of said County and awaiting his trial on said indictments and after the trial had as aforesaid sworn threats were frequently made openly and publicly by inhabitants of said County that they would hang petitioner law or no law, and petitioner says that he would have been mobbed and mobbed and murdered by the inhabitants of said County had it not been that the officers having him in custody kept strong guards placed over him constantly. And petitioner further says that his alleged trial and conviction in said District Court in said County although illegal and void greatly intensified the feeling and prejudice against him on the part of the inhabitants of said County and that the same has since then constantly increased and is still increasing. That since his illegal trial and conviction and especially since the trial verdict and judgment against him was by the Supreme Court of the state set
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aside and reversed, many of the inhabitants of said Hinsdale County having become still further prejudiced against the petitioner have openly and publicly threatened as affiant is informed and believes that if petitioner should ~~xxxx~~ now be returned there for trial they would hang him law or no law, and petitioner further says that since his apprehension in March 1888, the newspapers published in said County of Hinsdale namely the Register and the Silver World have in many articles published in them severely condemned petitioner as a murderer and declared him guilty of the murder of the several persons named in said several indictments including the said Shannon Wilson Bell.

120
That the said Silver World immediately after the reversal of said cause by the Supreme court as aforesaid published an article concerning petitioner in which it denounced him as a murderer and charged him with having committed a murder in another state, namely in the state of Kansas. And petitioner says that said newspapers and each of them had during the time of said several publications, and now have a wide and extensive circulation among the inhabitants of said County and much influence with them, and that said publications tended to and did greatly intensify the feeling and prejudice against petitioner on the part of the inhabitants of said County, and the petitioner says that your Honor knows of the tenor and existence of many of the said publications having read them, and petitioner says that since the day of his apprehension in March 1888, to the present time, the prejudice existing against him on the part of the inhabitants of said County has constantly increased and is still increasing, that from that time until this he has
121
been confined in Jail and has therefore been unable to obtain information of many facts which might be stated as he verily believes showing the prejudice against him on the part of the inhabitants of said County, that during the whole of said time he has had no money or means of any kind to pay the traveling expense of any one to visit Hinsdale County and acquire knowledge of many facts ~~xxxxxx~~ which he verily believes do exist, and petitioner says that he has a perfect defense as he verily believes and as he is informed by his counsel, if he can have a fair and impartial trial and hearing and trial of said cause.
122

And your petitioner further says, that while he regards your Honor as an upright and conscientious Judge, that he fears and verily believes that you are prejudiced against him and that he cannot for that reason have a fair trial before you as Judge of said court, because he says that at the time of his trial as aforesaid in the District Court of Hinsdale County and for many years prior thereto, you were a resident and inhabitant of said Hinsdale County and had then and now have many friends and acquaintances among the inhabitants of said County, and petitioner verily believes that it would have been almost if not quite impossible for you to not in some manner and to some extent share in the prejudice and belief of petitioners guilt existing on the part of your neighbors, friends and acquaintances among the inhabitants of said county, and petitioner verily believes that you regard him as guilty of the offence charged in said indictment, and while petitioner believes that your Honor would endeavor conscientiously to give him a fair and impartial trial in said cause and the several matters connected therewith yet being mindful of the frailty of all men however just, honest and conscientious he fears that your prejudice (if such you have) might unknown to yourself, swerve or bias your Judgment upon some important question involving the petitioners rights and liberty for years.

Your Petitioner further says, that if prior to his trial and conviction as hereinbefore stated, you had formed no conclusion or opinion as to petitioners guilt or innocence, yet he verily believes that the evidence elicited at the trial and the verdict of the Jury, greatly influenced your mind against petitioner, and while your Honor can also determine the existence or non-existence of prejudice in your mind against petitioner, he sincerely prays that you may disolve in his favor any doubt you may have in the premises, and

Petitioner prays that the venue of said cause be changed to a County of some other Judicial District of this state and for such orders in the premises as may be just and proper.

Brown & Sepp
Attys for Petitioner

Alfred Packer

State of Colorado :
:ss
County of Gunnison :

126 Alfred Packer being by me first duly sworn according to law, upon his oath says, I am the petitioner in the above entitled cause. I have heard read the foregoing petition in said cause and know the contents thereof, and the same is true of my own knowledge except as to the matters therein stated upon information and belief, and as to those matters I believe it to be true.

Subscribed and sworn to : Alfred Packer
before me this 8th day :
of March 1886 :
Marion S Waller
Clerk of the District Court in & for Gunnison
County Colorado,
/SEAL/ By J H McCormick Deputy.

State of Colorado :
:ss
Hinsdale County :

127 I Thomas Shanly Clerk of the District Court of the 7th Judicial District in said state & for said County do hereby certify the above & foregoing to be a true perfect and complete copy of the Petition of Alfred Packer for change of venue in the above and foregoing entitled cause No 380, as the same was filed with said cause in my office.

Witness my hand ~~and~~ & the seal of said Court at Lake City this -th day of April A D 1886.

/SEAL/ Thos Shanly Clerk
Hinsdale Co. Colorado
District Court.

128 I, Thomas Shanly Clerk of the District Court of Hinsdale County, in the State aforesaid, do hereby certify the above and foregoing to be a true, perfect and complete copy of the record, order and petition in a certain cause No 380 pending in said Court, wherein The People of the state of Colorado were Plaintiffs and Alfred Packer was Defendant.

Witness IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Court, at Lake City this 15th day of May A. D. 1886

/SEAL/ Thos Shanly Clerk
District Court
Hinsdale Co. Colorado

(Indorsements)

388 No 380 Transcript of Proceedings in Suit.
District Court, Hinsdale County, April Term, 1886
In the Matter of The People of the State of Colorado vs. Alfred Packer
129 Filed May 24, 1886, Jno H McCormick Clerk.

State of Colorado -

In the District Court of the Seventh Judicial District, within and for the County of Gunnison.

Change of Venue from Hinsdale County.

The People of the State of Colorado, Plaintiff,

vs.

Alfred Packer, Defendant

No. 238.

Indictment for Manslaughter.

/30

And now comes Alfred Packer defendant in the above entitled cause, in his own proper person, and by Brown & Sapp, his attorneys, and prays the Court; that of the indictment in said cause he be discharged, and allowed to go hence without day- for the reasons set forth in defendants affidavit herunto annexed and filed in support hereof, and for the reasons appearing upon the record, and from the papers and proceedings in this cause.

Brown & Sapp
Attorneys for Defendant.

A S Packer
Defendant.

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State of Colorado -

In the District Court of the Seventh Judicial District, within and for the County of Gunnison.

Change of Venue from Hinsdale County.

The People of the State of Colorado, Plaintiff,

vs.

Alfred Packer, Defendant.

No. 238

Indictment for Manslaughter.

Gunnison County:ss.

/32

Alfred Packer being first duly sworn says; That he is the defendant in the above entitled cause, and that he makes this affidavit in support of his motion for discharge filed in said cause. Affiant says, that at the April Term 1888, of the District Court held within and for the County of Hinsdale in this State, an indictment was returned against him by the Grand Jury of said County, charging him with the unlawful and felonious killing of one Shannon Wilson Bell in said County in the month of March A. D. 1874.

That affiant has never been arraigned or tried upon said

indictment, nor has there been any attempt on the part of the officers of the law to bring him to trial thereon. That the delay
/33 in bringing him to trial upon the said indictment has not happened on the application of affiant, and he has in no manner been the cause of the delay, nor has he in any manner contributed to the cause thereof.

That since the said indictment was returned against him as aforesaid, there have been five regular terms of the said District Court commenced and had within and for the County of Hinsdale exclusive of the term at which the said indictment was returned, and exclusive of the last April Term thereof A. D. 1888 - namely, the August and April Terms A. D. 1884, the August Term A. D. 1883,
/34 and the April and September Terms A. D. 1885.

That during each and all of the said terms of Court the said indictment action and indictment were pending against said defendant in said District Court of said County, and that at either of the said terms of the said Court, this affiant could have been tried upon the said indictment, and that during each and all of the said terms, the said District Court of Hinsdale County was a Court of competent jurisdiction vested with the power and authority to try affiant upon the said indictment and possessed of exclusive jurisdiction in the premises. And affiant further says, that during
/35 all the period of time from April A. D. 1883 to the present time affiant has been committed to prison to answer to the charge contained in the said indictment in the manner following viz: That at the said April Term of said Court 1883, affiant was arraigned upon another indictment wherein he was charged with the unlawful and felonious killing of one Israel Swan, and was tried upon the said indictment as for the crime of murder, and after that time and until about the month of October, 1885, he was held and detained under sentence in said cause, by the officers of the law and denied bail, that a to wit, the April Term A. D. 1884 of the said District Court of Hinsdale County a capias was issued in another cause in the said Court, wherein the affiant was charged with the unlawful killing of one George Noon and that since that time he has been held and detained in prison on both the said capias, as well as by virtue
/36

of the process of Court in said former case wherein he was charged with the unlawful and felonious killing of said Israel Swan, and has ever since been and is now committed to prison without bail, being unable to give the same.

137. And affiant further says that the process of the Court in said former case, as well as the capias last issued were placed in the hands of the officer of the law for the purpose of holding and committing to answer to the charge in the indictment in this cause, as well as to commit affiant to answer to the charge in each and both of the other causes named, and which rendered wholly unnecessary the issuance of any capias or any other authority to the officers to hold and commit affiant to answer to the charge in this cause.

138. That since the said last named capias was issued in April 1884, three terms of the said District Court have convened and passed exclusive of the said April Term thereof in 1884 and the last April Term thereof in 1886, namely the August Term in 1884 and the April and September Terms thereof in 1885, at which time the affiant could have been tried upon the said indictment, and no attempt was made to bring him to trial.

Subscribed and sworn to : A. G. Packer
before me this 21th day :
of July A. D. 1886. :
John H. McCormick
Clerk

(Indorsement)

139. No. 238 The District Court of Gunnison County.
The People Plaintiff vs. Alfred Packer Defendant.
Motion & Affidavit.

Filed July 21, 1886 John H McCormick Clerk
Brown & Sapp Attorney for Deft.

State of Colorado :
 :ss
 County of Hinsdale :

In the District Court of the Seventh Judicial District of the State of Colorado, within and for the County of Hinsdale aforesaid, at the April Term thereof, A. D. 1883.

The Grand Jurors chosen, selected and sworn in and for the County of Hinsdale, in the State of Colorado, in the name and the authority of the People of the State of Colorado, upon their oaths, present:

140 That Alfred Packer, late of the County of Hinsdale aforesaid, on, to wit, the first day of March in the year of Our Lord One Thousand Eight Hundred and Seventy-four, at the County of Hinsdale aforesaid in the then Territory of Colorado, but now being the said State of Colorado aforesaid in and upon one Frank Miller a human being ~~said~~ ~~in~~ in the peace of the said people then and there being did then, and there, unlawfully, wilfully, feloniously and of his malice aforethought, kill and murder, Frank Miller aforesaid, contrary to the form of the Statutes in such case made and provided and against the peace and dignity of the same people of the State of Colorado.

141 J. C. Bell, District Attorney Pro Tem. of Hinsdale County, State of Colorado, & within the 7th Judicial District of said State, for the April Term thereof, A. D. 1883.

The Witnesses of the People in said prosecution are as follows, to wit:

142 H. F. Lauter,
 A. Hartman,
 Preston Nutter,
 Enos T. Hotchkiss,
 George Tracy,
 Stephen A. Dole,
 James Downer,
 Clair Smith,
 John McMahon,
 John McCoy,
 McIntosh,
 Hesse Musgrave.

Herman Lueders,
 O. D. Loutsenhizer,
 James Dolan,
 Charles Adams,
 R. C. McGrew,
 A. P. Wall,
 Otto Mears,
 John O. Davis,
 H. C. Olney,
 David Toll,
 Henry Finley,

I, Arthur P. Cook, Clerk of the District Court of Hinsdale County in the State aforesaid, do hereby certify the above and foregoing to be a true, perfect and complete copy of the Indictment and list of Witnesses in a certain cause now pending in said Court, wherein the People of the State of Colorado is Plaintiff and Alfred Packer is Defendant.

In Witness Whereof, I have hereunto set my hand and affixed the Seal of said Court, at Lake City, this 7th day of April A.D. 1883
 /SEAL/
 District Court
 Hinsdale Co. Colorado

Arthur P. Cook
 Clerk

(Indorsement)

#381 239 Certified Copy

The People of the State of Colorado vs Alfred Packer.

Indictment for Murder. A True Bill Geo Wilson Foreman of the
Grand Jury
Filed May 24, 1886, Jno H McCormick Clerk.

The People of the State of Colorado do hereby certify that the within
indictment is a true and correct copy of the original
indictment as the same appears in the files of the
District Attorney of the District of Colorado
in which it is filed.

Witness my hand and seal

at Denver, Colorado

this 24th day of May

1886

Geo Wilson Foreman

Grand Jury

Jno H McCormick Clerk

Attest my hand and seal

this 24th day of May

1886

Geo Wilson Foreman

Grand Jury

Jno H McCormick Clerk

Attest my hand and seal

this 24th day of May

1886

Geo Wilson Foreman

Grand Jury

Jno H McCormick Clerk

Attest my hand and seal

this 24th day of May

1886

Geo Wilson Foreman

Grand Jury

Jno H McCormick Clerk

The People of the State of Colorado do hereby certify that the within

indictment is a true and correct copy of the original

indictment as the same appears in the files of the

District Attorney of the District of Colorado

in which it is filed.

Witness my hand and seal

at Denver, Colorado

this 24th day of May

1886

Geo Wilson Foreman

Grand Jury

Jno H McCormick Clerk

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Geo Wilson Foreman

Grand Jury

Jno H McCormick Clerk

Attest my hand and seal

this 24th day of May

1886

Geo Wilson Foreman

Grand Jury

Jno H McCormick Clerk

State of Colorado :
 Hinsdale County : ss In District Court, April Term, A. D. 1883

44
 PLEASE before the Honorable Melville B. Gerry, Judge of the District Court of Hinsdale County, in and for the seventh Judicial District, in the State of Colorado, at a term thereof begun and held at the Court House, in the Town of Lake City in said County, on the First Monday (being the Second day) of April in the year of our Lord one thousand eight hundred and eighty-three and of the Independence of the United States the one hundred and seventh.

Present, Honorable Melville B. Gerry Judge
 Clair Smith Sheriff

Attest, Arthur P. Cook Clerk J. C. Bell Dist Atty pro tem.

April 2 When the following proceedings were had and recorded,
 It appearing to the Court that the District Attorney of the 7th Judicial District is not present at this term of this Court, the Court appoints J. C. Bell District Attorney pro tem.

April 7" This day appears at the bar of this Court the Grand Jury heretofore impaneled and sworn and present their certain bill of indictment against Alfred Packer for the murder of Frank Miller, Endorsed "A True Bill, Geo Wilson Foreman of the Grand Jury."

45
 State of Colorado - In the District Court within and for the County of Hinsdale

Men 11th The People of the State of Colorado:
 1886 Plaintiff :
 vs : #381.
 Alfred Packer Defendant :

Before the Hon' M. B. Gerry, Judge of the seventh Judicial District of the state of Dolorado, at chambers, in Gunnison, in said District.

146
 And now on this day before the Judge of said District Court, at chambers, at Gunnison, the petition of Alfred Packer the defendant in the above entitled cause, for a change of venue in said cause coming on to be heard, the people being represented by H'M Hogg, District Attorney, and the defendant being present in person, and by Brown & Sapp his attorneys, the petition of the said defendant was argued by the respective counsel for the people and the defendant,

And was submitted to the said Judge, and the said

Judge after due examination of the same, found the same to be true, and sufficient in law, as well on account of the prejudice of the said Judge, as of the prejudice of the inhabitants of said Hinsdale County. And it is therefore ordered and adjudged, that the venue of the said cause be changed from the said County of Hinsdale to the County of Gunnison in the said Judicial District.

147 And it is further ordered, that in the event no Judge of any other Judicial District of said State, can be procured to hear and try the said cause in said Gunnison County, then the venue of the said cause shall be changed to some County of another Judicial District of said state, to be hereafter designated by the District Court of said Gunnison County, or the Judge thereof in vacation.

148 And it is ordered, that the Clerk of the District Court of Hinsdale County, make a full transcript of the record and proceedings in the said cause, and of the defendants petition, and of this order, and transmit the same together with all papers filed in said cause, including the indictment &c to the clerk of the District Court of said Gunnison County.

And it is further ordered, that any motions filed in said Court by defendant, shall be filed on or before the 19th day of July A D 1886.

Done at Chambers in Gunnison County on this 9th day
of March A D 1886

M B. Gerry District Judge

State of Colorado :
:ss
Hinsdale County :

149 I Thomas Shanly Clerk of the District Court of the seventh Judicial District, in and for the County of Hinsdale in said state, do hereby certify the above and foregoing to be a true, perfect and complete copy of an order recorded in the Court Journal in my office, changing the venue in the above entitled cause from the County of Hinsdale to the County of Gunnison in said state.

Witness my hand and the seal of said Court at Lake City this 6th day of April A D 1886.

/SEAL/
District Court
Hinsdale Co. Colorado

Thos Shanly Clerk

Mon 11th
1886

State of Colorado - In the District Court within and for
the County of Hinsdale.

The People of the State of Colorado:
Plaintiff

vs

No 381.

Alfred Packer Defendant

To the Hon M B. Gerry Judge of the District Court of the
7th Judicial District of the state of Colorado, at Chambers
in the Town of Gunnison in said District.

Your Petitioner Alfred Packer the defendant in the
above entitled cause, respectfully shows to your Honor
and alleges, That at the april term A D 1883, of the
District Court within and for the County of Hinsdale ~~saka~~
state of Colorado an indictment was returned against him
by the Grand Jury of said County in which indictment he
was and is charged with the felonious killing of one
Frank Miller, in said County, on the 1st day of March A.D
1874, and that at said term of said Court he was arraigned
upon said indictment and pleaded not guilty thereto.
That at said term of said Court the Grand Jury of said
Court, also returned against petitioner four other indict-
ments in each of which he was and is charged with the
felonious killing of a person therein named, on the said
1st day of March A D 1874, and in one of which he was
charged with the felonious killing of One Israel Swan
on the said day and in the County aforesaid.

That at the said term of said Court he was arraigned
on said indictment charging him with the felonious killing
of the said Israel Swan, and pleaded not guilty thereto,
and that thereupon at the said term of said court he was
by the said Court put upon his trial upon the said last
named indictment, as for the said murder of the said Is-
rael Swan and that such illegal proceedings in said
cause were subsequently and at said term of said Court
had, as that he petitioner was tried by a Jury, and the
said Jury returned into Court an alleged verdict ille-
gally finding the petitioner guilty of murder whereas he

was not guilty nor proven guilty of any such offence, nor was there any law authorizing his prosecution for a conviction of said supposed offense.

The petitioner further shows and alleges, that while he is entirely innocent of the crime charged in said indictment last named, or charged in any or either of said indictments, yet he fears and verily believes that he cannot receive a fair trial in said District Court of Hinsdale County, for the reasons facts and causes following, viz:

That he petitioner shortly before his indictment in said County of Hinsdale was apprehended and taken to the said County for trial on the charge of feloniously killing of the persons named in the said several indictments, That the people of said County were so prejudiced and incensed against him, that it was almost impossible for for the officers of the law to prevent his being murdered at the hands of the citizens and inhabitants of said County, that by reason of rumors which had long been rife among the people who lived in the country surrounding the scene of the alleged homicides with which the petitioner is charged in said several indictments, almost without exception had been carried to the conclusion in their minds, that petitioner had not only killed the persons named in said several indictments including the said Frank Miller for their money, but from a craving and vicious desire for human flesh and blood, had eaten them up, that these rumors groundless in fact, but harrowing in detail and calculated to excite to its highest pitch the prejudice and enmity of all persons possessing human sympathy had come to be regarded as a veritable legend by the inhabitants of said Hinsdale county that by reason of the prejudice engendered by rumor shortly after the year 1874 and increased by subsequent rumors, and rumors in apparent confirmation of the former rumors, Honorable and conscientious inhabitants of said county had come to a fixed opinion and belief in their minds that petitioner had in a

most horrible and atrocious manner possible, murdered the said Frank Miller and other persons mentioned in the said several indictments, and that was a fixed opinion shared in by all of the inhabitants of said county, and so strong has that impression and opinion grown among the inhabitants of said County, that that it would be difficult if not impossible to find a single person in said County who has not a fixed opinion that petitioner is guilty of the charges preferred by each and all of said indictment.

157
Your petitioner further says that after his trial in April 1883, of said Court in said County the prejudice against him on the part of the inhabitants of said County was so bitter and so apparent, that the officers of the law including the Judge of said District Court, deemed it absolutely necessary to remove the petitioner to the County Jail of Gunnison County in order to prevent his being mobbed and murdered at the hands of the inhabitants of said Hinsdale County, and petitioner verily believes that he was removed to said County Jail of Gunnison County at the instance of the Judge of said Court to prevent mob violence on the part of the inhabitants of said County.

158
And petitioner further says, that when he was removed from the said County of Hinsdale to the County of Gunnison the officers having him in charge in order to avoid mob violence did not allow it to be publicly known that he would be removed, but kept the same strictly secret, deeming it absolutely necessary so to do, in order to avoid mob violence at the hands of the citizens and inhabitants of said County, and as a further precaution against mob violence removed him from said Hinsdale County in the night time to avoid detection.

159
Petitioner further says that during the said April Term 1883, of said Court in said County, and while petitioner was in charge of the sheriff of said County and awaiting his trial on said indictments and after the

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trial has as aforesaid severe threats were frequently made openly and publicly by the inhabitants of said County, that they would hang petitioner law or no law, and petitioner says that he would have been mobbed and murdered by the inhabitants of said County had it not been that the officers having him in custody kept strong guards placed over him constantly, and petitioner further says that his alleged trial and conviction in said District Court, in said County, although illegal and void greatly intensified the feeling and prejudice against him on the part of the inhabitants of said County, and that the same has since then constantly increased, and is still increasing, that since his alleged trial and conviction, and especially since the trial, verdict and judgment against him was by the Supreme Court of the state set aside and reversed, many of the inhabitants of Hinsdale County having become still further prejudiced against the petitioner, have openly and publicly threatened as as affiant is informed and believes, that if petitioner should ever be returned there for trial, they would hang him law or no law. And petitioner further says that since his apprehension in March 1883, the newspapers published in said County of Hinsdale namely the Register and the Silver World have in many articles published in them severely condemned petitioner as a murderer and declared him guilty of the murder of the several persons named in said several indictments including the said Frank Miller.

161

162
That the said Silver World immediately after the reversal of said cause by the Supreme Court as aforesaid, published an article concerning petitioner in which it denounced him as a murderer and charged him with having committed murder in another state, to wit: in the state of Kansas and petitioner says that said newspapers and each of them had during the time of said several publications and now have a wide and extensive circulation, among the inhabitants of said County and much influence with them, and that said publications tended to and did greatly in-

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163
tensify the feeling and prejudice against petitioner on the part of the inhabitants of said County. And petitioner says that your Honor knows of the tenor and ~~affa~~ existence of many of the said publications, having read them, and petitioner says that since the day of his apprehension in March 1883 to the present time the prejudices existing against him on the part of the inhabitants of said County has constantly increased and is still increasing. That from that time until this he has been confined in Jail and has therefore been unable to obtain information of many facts which might be stated as he verily believes showing the prejudice against him on the part of the inhabitants of said County, that during the whole of said time he has had no money or means of any kind to pay the traveling expenses of anyone to visit ~~in~~ Hinsdale County and acquire knowledge of many facts which he verily believes do exist.

164
And petitioner says that he has a perfect defence as he verily believes and as he is informed by his counsel if he can have a fair and impartial trial of said cause, and your petitioner further says, that while he regards your Honor as an upright and conscientious Judge, that he fears and verily believes that you are prejudiced against him, and that he cannot for that reason have a fair and impartial trial before you as Judge of said Court, because he says that at the time of his trial as aforesaid in the District Court of Hinsdale County and for many years prior thereto you were a resident and inhabitant of said Hinsdale County, and had then and now have many friends and acquaintances among the inhabitants of said County, and petitioner verily believes that it would ~~be~~ have been almost if not quite impossible for you not to in some manner and to some extent share in the prejudice and belief of petitioners guilt existing on the part of your neighbors, friends and acquaintances among

165

the inhabitants of the said County.

166 And petitioner verily believes that you regard him as guilty of the offence charged in the said indictment, and while petitioner believes that your Honor would endeavor conscientiously to give him a fair and impartial trial in said cause and in the several matters ~~xx~~ connected therewith, yet being mindful of the frailty of all men however just, honest and conscientious, he fears that your prejudice, if such you have, might unknown to yourself swerve or bias your Judgment upon some important question involving petitioners rights and liberties for years.

167 Your petitioner further says that if prior to his trial and conviction as hereinbefore stated, you had ~~found~~ formed no conclusion or opinion as to petitioners guilt or innocence, yet he verily believes that the evidence submitted at the trial and the verdict of the Jury greatly influenced your mind against him, and while your Honor can alone determine ~~ix yxxx xi~~ the existence or non existence of prejudice in your mind against petitioner, he sincerely prays that you may resolve in his favor any doubt you may have in the premises, and petitioner therefore prays that the venue of said cause be changed to some County in another Judicial District of this state, and for such other orders in the premises as may be just and proper.

Alfred Packer

Brown & Sapp
Attys for Petitioner.

State of Colorado :
Gunnison County :ss

168 Alfred Packer being by me first duly sworn says that he has heard read the foregoing petition by him subscribed and knows the contents thereof, and that the same is true of his own knowledge, excepting as to the matters therein stated to be on his information and belief, and as to those matters he believes it to be true.

Subscribed and sworn to : Alfred Packer
before me this 8th day :
of March A D 1883 :

Marion S. Waller Clerk of Dist. Court in and for
Gunnison County Colorado

/SEAL/ By J H McCormick Deputy

State of Colorado :
:ss
Hinsdale County :

I Thomas Shanly Clerk of the District Court in & for the 7th Judicial District of said state in said County, do hereby certify that the above and foregoing is a true perfect & complete Copy of the petition of Alfred Packer for Change of venue in the above entitled cause, No 381, filed in my office March 11th 1886.

Given under my hand and the seal of said Court at Lake City Colo this 6th day of April A D 1886
/SEAL/
District Court
Hinsdale Co. Colorado

Thos Shanly Clerk

169
I, Thomas Shanly Clerk of the District Court of Hinsdale County, in the State aforesaid, do hereby certify ~~xxxx~~ the above and foregoing to be a true, perfect and complete copy of the Record order & petition in a certain cause No 381 pending in said Court, on the ----- side thereof, wherein The People of the state of Colorado were Plffs and Alfred Packer was Defendant.

IN WITNESS WHEREOF, I have hererunto set my hand and affixed the seal of said Court, at Lake City this 8th day of April A. D. 1886

170
/SEAL/
District Court
Hinsdale Co. Colorado.

Thos Shanly Clerk

(Indorsement)

239. No 381 Transcript of Proceedings in Suit.
District Court, Hinsdale County, April Term, 1886.
In the Matter of The People of the state of Colorado vs. Alfred Packer
Filed May 24, 1886, Jno H McCormick Clerk.

No. 239.

Affidavit and Motion for Discharge

State of Colorado : In the District Court of the Seventh Ju-
County of Gunnison : ss dicial District of the State of Colorado
within and for the County of Gunnison

Change of Venue from Hinsdale County.

The People of the State of Col-
orado, Plaintiff,

No

against

Indictment for Manslaughter.

Alfred Packer Defendant

State of Colorado :
County of Gunnison : ss

Alfred Packer being by me first duly sworn according to
law upon his oath says

That he is the defendant in above entitled cause, and
that he makes this affidavit in support of his motion for discharge
filed in said cause.

And affiant says, that at the April Term A D 1883 of the
District Court held within and for the County Hinsdale State of
Colorado an indictment was returned against him by the Grand Jury
of said County charging him with the unlawful and felonious killing
of one Frank Miller in said County in the month of March A D 1874

That affiant has never been arraigned or tried upon said
indictment nor has there been any attempt on the part of the offi-
cers of the law to bring him to trial thereon.

That the delay in bringing him to trial upon the said
indictment has not happened on the application of affiant and he
has in no manner been the cause of the delay nor has he in any
manner contributed to the cause thereof.

That since the said indictment was returned against him
as aforesaid there have been five regular terms of the said Court
convened and held within and for the said County of Hinsdale ex-
clusive of the term at which the said indictment was returned and
exclusive of the last April term thereof A D 1883, namely the August
term 1883, the April and August terms 1884 and the April and Sep-
tember terms thereof 1885.

That during each and all of the said terms of Court the
said action and indictment was pending against defendant in said
District Court of said County and that in either of said terms of

61
Court the affiant could have been tried upon the said indictment and That during each and all of said terms the said District Court of Hinsdale County was a court of competent jurisdiction vested with the power and authority to try affiant upon the said indictment and possessed of exclusive jurisdiction in the premises.

174 And affiant further says that during all the period of time from April 1883 to the present time he affiant, he has been committed to prison to answer to the charge contained in said indictment in the manner following viz

That at the said April term of said Court 1883, affiant was arraigned upon another indictment wherein he was and is charged with the unlawful and felonious killing of one Israel Swan and was tried upon the said indictment as for the crime of murder, and after that time and until about the month of October 1885, he was held and detained under sentence in said cause by the officers of the law and denied bail

175 That on to wit the April term 1884 of the said District Court of Hinsdale County a capias was issued in an other cause in the ~~said~~ said Court wherein the affiant was charged with the unlawful and felonious killing of one George Noon and that since that time he has been held and detained in prison on both the said capias as well as by virtue of the process of Court in said former case wherein he was charged with the unlawful and felonious killing of said Israel Swan and has ever since been and is now committed to prison without bail being unable to give the same

176 And affiant further says that the process of the Court in said former cause as well as the capias last issued were placed in the hands of the officers of the law having affiant in charge for the purpose of holding and committing affiant to answer to the charge in the indictment in this cause as well as to commit affiant to answer the charges in each and both of the other causes named, and which rendered wholly unnecessary the issuance of any capias or any other authority to the officer to hold and commit affiant to answer to the charge in the cause.

177 That since the said last named capias was issued in April 1884, three terms of the said District Court have convened and passed exclusive of the said April term 1884 and the last April

term thereof 1886, namely the August term 1884, and the April and September terms thereof 1885 at which terms the affiant could have been tried upon the said indictment and not attempt was made to bring him to trial.

Subscribed and sworn to : A G Packer
before me this 21st day of :
July A D 1886 :
John H McCormick
Clerk

/SEAL/
District Court
Gunnison County, Colo.

178 State of Colorado : In the District Court of the Seventh Ju-
: ss dicial District of the State of Colorado
County of Gunnison : within and for the County of Gunnison

Change of venue from Hinsdale County

.
The People of the State of Colo-
rado Plaintiff :
vs : No
Alfred Packer Defendant : Indictment for Manslaughter
.

179 Now comes Alfred Packer defendant in above entitled cause in his own proper person and by Brown and Sapp, his counsel and prays, the Court, that of the indictment in said cause, he be discharged and allowed to go hence without day for the reasons set forth in said defendants affidavit herunto annexed and filed in support hereof and for the reasons appearing upon the record and from the papers and proceedings in said cause.

Brown and Sapp A G Packer
Attorneys for Defendant Defendant

(Indorsement:)

No 239
The People v Alfred Packer
Motion and affidavit for discharge.

Filed July 21, 1886, John H McCormick Clerk.

State of Colorado :
 :ss
 County of Hinsdale :

180 In the District Court of the Seventh Judicial District of the State of Colorado, within and for the County of Hinsdale aforesaid at the April Term thereof A. D. 1883.

The Grand Jurors chosen, selected and sworn in and for the County of Hinsdale, in the State of Colorado, in the name and by the authority of the people of the State of Colorado, upon their oaths present:

181 That Alfred Packer late of the County of Hinsdale aforesaid, on, to wit, the first day of march in the year of Our Lord One Thousand Eight Hundred and Seventy-four at the County of Hinsdale aforesaid in the then Territory of Colorado but now in the State of Colorado aforesaid, in and upon one George Noon a human being in the peace of the said people then and there being, did then and there unlawfully, willfully, feloniously, and of his malice aforethought make an assault; and that the said Alfred Packer with a certain hatchet in his hands then and there had and held, in and upon the head and forehead of him the said George Noon, did then and there unlawfully, willfully, feloniously and of his malice aforethought, strike, beat and wound; then and there giving to the said George Noon, then and there with the hatchet aforesaid in and upon the head and forehead aforesaid, several mortal wounds and bruises, he, the said George Noon, on the day and year last aforesaid, at the County aforesaid, died.

182 And so the Grand Jury aforesaid, upon their oaths aforesaid, do say, that the said Alfred Packer, him, the said George Noon, in manner and form aforesaid, on the day and year last aforesaid, at the County aforesaid, unlawfully, willfully, feloniously and of his malice aforethought did kill and murder; contrary to the form of the Statute in such case made and provided, and against the peace and dignity of the same People of the State of Colorado.

183 J. C. Bell, District Attorney Pro Tem. of Hinsdale County, State of Colorado, and within the 7th Judicial District of said State, for the April Term thereof A. D. 1883.

The Witnesses for the people in the said prosecution are as follows, to-wit:

H. F. Lauter,
A. Hartman,
Preston Nutter,
Enos T. Hotchkiss,
George Tracy,
Stephen A. Dole,
James Downer,
Clair Smith,
John McMahon,
John McCoy,
Henry Finley,

Herman Lueders,
O. D. Loutsenhizer,
James Dolan,
Charles Adams,
R. G. McGrew,
A. P. Wall,
Otto Mears,
John O. Davis,
H. C. Olney,
David Toll
McIntosh,
Hesse Musgrave.

184
State of Colorado :
County of Hinsdale :ss

I, Arthur P. Cook, Clerk of the District Court of Hinsdale County, in the State aforesaid, do hereby certify the above and foregoing to be a true, perfect and complete copy of the Indictment and list of witnesses in a certain Cause now pending in said Court, wherein the People of the State of Colorado is plaintiff, and Alfred Packer is Defendant.

In Witness Whereof, I have hereunto set my hand and affixed the Seal of said Court, at Lake City this 7th day of April
A. D. 1883.

185
/SEAL/
District Court
Hinsdale Co. Colorado

Arthur P. Cook Clerk

(Indorsement)

#382 240 Certified Copy.
The People of the State of Colorado vs Alfred Packer.
Indictment for Murder
A True Bill Geo Wilson Foreman of the Grand Jury.
Filed May 24, 1886, Jno H McCormick Clerk.

No. 240. Transcript from District Court of Hinsdale Co.

UNITED STATES OF AMERICA.

State of Colorado :
Hinsdale County, : ss In District Court, April Term, A.D. 1883

186
PLEAS before the Honorable Melville B. Gerry, Judge of the District Court of Hinsdale County, in and for the Seventh Judicial District, in the State of Colorado, at a term thereof begun and held at the Court House, in the Town of Lake City in said County, on the First Monday (being the Second day) of April in the year of our Lord one thousand eight hundred and eighty-three and of the Independence of the United States the one hundred and Seventh.

Present, Honorable Melville B. Gerry Judge.

Clair Smith Sheriff.

Attest, Arthur P. Cook Clerk. J. C. Bell Dist Atty pro tem.,

187
April 2 When the following proceedings were had and recorded, towit,
It appearing to the court that the District Attorney of the 7th Judicial District is not present at this term of this Court, the Court appoints J.C. Bell District Attorney pro tem.

April 7 This day appears at the bar of this Court the Grand Jury heretofore impaneled and sworn and present their certain bill of indictment against Alfred Packer for the murder of George Noon, Endorsed, "A True Bill, Geo. Wilson Foreman of the Grand Jury."

Subsequent Proceedings had at April Term, 1884.

Present Hon Melville B. Gerry Judge

Otis A. Baker Sheriff

Attest James F Downey Clerk Chas W. Rood Dist atty

188
April 8, The following proceedings were had and recorded, towit:
1884

The People of the state of Colorado:

vs

Alfred Packer

For the murder of Geo Noon

: 382 erroneously Dock
as No 408

Upon Application of the District Attorney Chas W. Rood, that the above entitled cause of action be entered upon the Docket of this Court, and that Capias issue for the arrest of said the said Alfred Packer. It is ordered and adjudged by the Court that said cause be docketed and that Capias issue and be sent to the Sheriff of Gunnison County, there to be served by the said sheriff upon the said Alfred Packer.

189
And it is further ordered by this Court that said Sheriff of Gunnison County safely keep in his custody, under such warrant, the said Alfred Packer, until further of this Court.

State of Colorado - In the District Court within and for the
County of Hinsdale.

The People of the state of Colorado:
Plaintiff

vs

No 382.

Alfred Packer Defendant

190 To the Hon. M. B. Gerry, Judge of the District Court of
the 7th Judicial District of the state of Colorado, at Chambers in
the town of Gunnison in said District.

191 Your petitioner, Alfred Packer, the defendant in the
above entitled cause, respectfully shows to your honor and alleges:
That at the April Term A. D 1883, of the District Court within and
for the County of Hinsdale State of Colorado, an indictment was
returned against him by the Grand Jury of said County, in which
indictment he was and is charged with the felonious killing of one
George Noon, in said County on the 1st day of March A D 1874, and
that at said term of said Court, he was arraigned upon said indict-
ment and pleaded not guilty thereto. That at said term of said
Court, the Grand Jury of said Court also returned against petitioner,
four other indictments in each of which he was and is charged with
with the felonious killing of a person therein named on the said
1st day of March A D 1874, and in one of which he was charged with
the felonious killing of one Israel Swan, on the said day and in
the County aforesaid.

192 That at the said term of said Court he was arraigned on
said indictment charging him with the felonious killing of the
said Israel Swan and pleaded not guilty thereto, and that thereupon
at the said term of said Court, he was by the said Court put upon
his trial upon the said lasynamed indictment, as for the said murder
of the said Israel Swan, and that such illegal proceedings in said
cause were subsequently and at said term of said Court had, as
that he, petitioner, was tried by a Jury, and the said Jury returned
into court an alleged verdict illegally finding the petitioner
guilty of murder, whereas he was not guilty nor proven guilty of any
such offense, nor was there any law authorizing his prosecution
for a conviction of said supposed offense.

193 The petitioner further shows and alleges, that while he is entirely innocent of the Crime charged in said indictment last named, or charged in any or either of said indictments, yet he fears and verily believes that he cannot receive a fair trial in said District Court of Hinsdale County for the reasons, facts and causes following viz:

194 That he petitioner shortly before his indictment in said County of Hinsdale, was apprehended and taken to the said County, for trial on the charge of feloniously killing of the persons named in the said several indictments. That the people of said County were so prejudiced and incensed against him that it was almost impossible for the Officers of the law to prevent his being murdered at the hands of the citizens and inhabitants of said County, that by reason of rumors which had long been rife among the people who lived in the Country surrounding the scene of the alleged homicides with which the petitioner is charged in the said several indictments, almost without exception had been carried to the conclusion in their minds that petitioner had not only killed the persons named in said several indictments, including the said George Noon, for their money, but for a craving and vicious desire for human flesh and blood, had eaten them up, that these rumors groundless in fact, but harrowing in detail, and calculated to excite to its highest pitch, the prejudice and enmity of all persons possessing human sympathy had come to be regarded as a veritable legend by the inhabitants of said Hinsdale County, that by reason of the prejudice engendered by rumor shortly after the year 1874, and increased by subsequent rumors and rumors in apparent confirmation of the former rumors, Honorable and conscientious inhabitants of said County had come to a fixed opinion and belief in their minds that petitioner in a most horrible and atrocious manner possible, murdered the said George Noon and other persons mentioned in the said several indictments, and that was a fixed opinion shared in by all of the inhabitants of said County, and so strong has that impression and opinion grown among the inhabitants of said County, that that it would be difficult if not impossible to find a single person in said County who has not a fixed opinion that petitioner is guilty of the charges preferred by each and all of said indictments

195

196

59.

197
Your petitioner further says that after his trial in
april 1883, of said court in said County, the prejudice against hi
on the part of the inhabitants of said County was so bitter and so
apparent that the officers of the law including the Judge of said
District Court, deemed it absolutely necessary to remove the pe-
titioner to the County Jail of Gunnison County in order to prevent
his being mobbed and murdered at the hands of the inhabitants of
said Hinsdale County, and petitioner verily believes that he was
removed to said County Jail of Gunnison County at the instance of
the Judge of said Court, to prevent mob violence on the part of
the inhabitants of said County.

198
And petitioner further says that when he was removed from
the said County of Hinsdale to the County of Gunnison, the officers
having him in charge in order to prevent mob violence, did not
allow it to be publicly known that he would be removed, but kept
the same strictly secret, deeming it absolutely necessary so to do
in order to avoid mob violence at the hands of the citizens and
inhabitants of said County, and as a further precaution against
mob violence removed him from said Hinsdale County in the night
time to avoid detection.

199
Petitioner further say that during the said April Term
1883, of said Court in said County and while petitioner was in the
Charge of the Sheriff of said County and awaiting his trial, on
said indictments and after the trial had as aforesaid severe threats
were frequently made openly and publicly, by inhabitants of said
County, that they would hang petitioner law or no law, and peti-
tioner says that he would have mobbed and murdered by the inhabit-
ants of said County had it not been that the officers having him
in custody kept strong guard placed over him constantly, and peti-
tioner further says that his alleged trial and conviction in said
District Court in said County although illegal and void greatly
intensified the feeling and prejudice against him on the part of
the inhabitants of said County and that the same has since then
constantly increased and is still increasing. That since his al-
leged trial and conviction and especially since the trial, verdict
and Judgment against him was by the Supreme Court of the State set
aside and reversed, many of the inhabitants of Hinsdale County hav-

200

ing become still further prejudiced against the petitioner, have openly and publicly threatened, as as affiant is informed and believes, that if petitioner should ever be returned there for trial, they would hang him law or no law, and petitioner further says that since his apprehension in March 1883, the Newspapers published in said County of Hinsdale namely the Register and the Silver World have in many articles published in them severely condemned petitioner as a murderer, and declared him guilty of the murder of the several persons named in said several indictments. including the said George Noon.

That the said Silver World immediately after the reversal of said cause by the Supreme Court as aforesaid, published an article concerning petitioner in which it denounced him as a murderer, and charged him with having committed murder in another state, towit, in the state of Kansas, and petitioner says that said newspapers and each of them had during the time of said several publications and now have a wide and extensive circulation, among the inhabitants of said County, and much influence with them, and that said publications tended to and did greatly intensify the feeling and prejudice against petitioner on the part of the inhabitants of said County, and petitioner says that your Honor knows of the tenor and existence of many of the said publications having read them. And petitioner says that since the day of his apprehension in March 1883, to the present time, the prejudice existing against him on on the part of the inhabitants of said County has constantly increased and is still increasing, that from that time to this he has been confined in Jail and has therefore been unable to obtain information of many facts which might be stated as he verily believes showing the prejudice against him on the part of the inhabitants of said County. That during the whole of said time he has had no money or means on any kind to pay the traveling expenses of any one to visit Hinsdale County and acquire knowledge of many facts which he verily believes do exist.

And petitioner says that he has a perfect defense as he verily believes and as he is informed by his counsel, if he can have a fair and impartial trial of said cause, and your petitioner further says that while he regards your Honor as an upright and

204 conscientious Judge, that he fears and verily believes that you are prejudiced against him, and that he cannot for that reason have a fair and impartial trial before you as Judge of said Court, because he says that at the time of his trial as aforesaid in the District Court of Hinsdale County and for many years prior thereto, you were a resident and inhabitant of said Hinsdale County, and had then and now have many friends and acquaintances among the inhabitants of said County, and petitioner verily believes that it would have been almost if not quite impossible for you not to in some manner and to some extent share in the prejudice and belief of petitioners guilt existing on the part of your neighbors, friends and acquaintances, among the inhabitants of the said County.

205 And petitioner verily believes that you regard him as guilty of the offense charged in the said indictment, and while petitioner believes that your Honor would endeavor conscientiously to give him a fair and impartial trial in said cause, and in the several matters connected therewith, yet being mindful of the frailty of all men, however Just, honest and conscientious, he fears that your prejudice, if such you have, might unknown to yourself swerve or bias your Judgment upon some important question involving petitioners rights and liberties for years.

206 Your petitioner further says, that if prior to his trial and conviction as hereinbefore stated, you had formed no conclusions or opinion as to petitioners guilt or innocence, yet he verily believes that the evidence submitted at the trial and the verdict of the Jury greatly influenced your mind against him, and while your Honor can alone determine the existence or non existence of prejudice in your mind against petitioner, he ~~sincerely~~ sincerely prays that you may resolve in his favor any doubt you may have in the premises. And petitioner therefore prays that the venue of said cause be changed to some county in another Judicial District of this state and for such other orders in the premises as may be Just and proper.

207 Brown & Sapp
Attys for Petitioner

Alfred Packer

State of Colorado :
 :ss
Gunnison County :

Alfred Packer being by me first duly sworn says that he has heard read the foregoing petition by him subscribed, and knows the contents thereof, and that the same is true of his own knowledge excepting as to the matters therein stated to be on his information and belief, and as to those matters he believes it to be true.

Subscribed and sworn to : Alfred Packer
before me this 8th day :
of March A D 1886

Marion S Waller Clerk of Dist Court in and for Gunnison County
Colorado By J H McCormick Deputy

208
/SEAL/

State of Colorado :
 :ss
Hinsdale County :

I Thomas Shanly Clerk of the District Court of the seventh Judicial District of said state in said County, do hereby certify the above & foregoing to be a true & complete copy of the Petition of Alfred Packer for a change of venue in the above & foregoing entitled cause, No 382, filed in my office March 11th A D 1886

Given under my hand ~~xxx~~ & the seal of said Court at
Lake City in said County this 6th day of April A D 1886

209
/SEAL/

Thos Shanly Clerk

District Court
Hinsdale Co. Colorado

State of Colorado - In the District Court within and for the
County of Hinsdale.

The People of the state of Colorado:
Plaintiff

vs.

No 382.

Alfred Packer Defendant

Before the Hon M. B. Gerry, Judge of the seventh Judicial
District of the state of Colorado, at chambers in Gunnison in said
District.

210 And now on this day before the Judge of said district
Court at chambers, at Gunnison, the petition of Alfred Packer the
defendant in the above entitled cause, for a change of venue in said
cause coming on to be heard, the people being represented by H. M.
Hogg District Attorney, and the defendant being present in person,
and by Brown & Sapp his attorneys, the petition of the said defend-
ant was argued by the respective counsel for the people and the
defendant, and was submitted to the said Judge, and the said Judge
after due examination of the same, found the same to be true, and
sufficient in law as well on account of the prejudice of the said
Judge, as of the prejudice of the inhabitants of said Hinsdale
211 County, and it is therefore ordered and adjudged, that the venue of
the said cause be changed from the said County of Hinsdale to the
County of Gunnison in the said Judicial District.

And it is further ordered, that in the event no Judge of
any other Judicial District of said state, can be procured to hear
and try the said cause, in said Gunnison County, then the venue of
the said cause shall be changed to some County on another Judicial
district of said state, to be hereafter designated by the District
Court of said Gunnison County, or the Judge thereof in vacation.

212 And it is ordered, that the Clerk of the District Court
of Hinsdale County, make a full transcript of the record and pro-
ceedings in the said cause, and of the defendants petition, and of
this order, and transmit the same together with all papers filed in
said cause, including the indictment &c to the Clerk of the District
Court of said Gunnison County.

And it is further ordered, that any motions filed in said cause by Defendant, shall be filed on or before the 19th day of July A D 1886.

Done at Chambers in Gunnison County this 9th day of March A D 1886.

M. B. Gerry
District Judge

213. State of Colorado :
Hinsdale County :ss
:

I Thomas Shanly Clerk of the District Court of the seventh Judicial District, in and for said County in said state, do hereby certify the foregoing to be a true, perfect and complete copy of the order of court changing the venue in the above entitled cause from Hinsdale County to Gunnison County in said state, as the same appears of record in the Court Journal kept in my office.

Witness my hand & the seal of said Court at Lake City in said County this 8th day of March A D 1886

Thos Shanly Clerk.

214. /SEAL/
District Court
Hinsdale Co. Colorado

I Thomas Shanly Clerk of the District Court of Hinsdale County, in the State aforesaid, do hereby certify the above and foregoing to be a true, perfect and complete copy of the Record, order and petition in a certain cause No 382 pending in said Court, wherein The People of the State of Colorado are Plaintiffs and Alfred Packer was Defendant.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Court, at Lake City this 8th day of April

A. D. 1886.

215. /SEAL/
District Court
Hinsdale Co. Colorado

Thos Shanly Clerk

(Indorsement)

240 No 382 Transcript of Proceedings in Suit.
District Court, Hinsdale County, April Term, 1886.
In the Matter of The People of the state of Colorado vs. Alfred Packer
Filed May 24, 1886, Jno H McCormick Clerk.

No. 240.- Motion and Affidavit for Discharge.

State of Colorado- In the District Court of the Seventh Judicial District, within and for the County of Gunnison.

Change of Venue from Hinsdale County.

.....
The People of the State of Col-
orado, Plaintiff, No. 240
vs. Indictment for Manslaughter.
Alfred Packer, Defendant.
.....

And now comes Alfred Packer defendant in the above entit-
tled cause, in his own proper person, and by Bown & Sapp, his at-
torneys, and prays the Court; that of the indictment in said cause
he be discharged, and allowed to go hence without day- for the
reasons set forth in defendants affidavit herunto annexed and
filed in support hereof, and for the reasons appearing upon the
record, and from the papers and proceedings in this cause.

Brown & Sapp
Attorneys for Defendant. A G Packer Defendant

State of Colorado - In the District Court of the Seventh Judicial District, within and for the County of Gunnison.

Change of Venue from Hinsdale County.

.....
The People of the State of Col-
orado, Plaintiff,
vs. No. _____
Alfred Packer, Defendant. Indictment for Manslaughter.
.....

Gunnison County:ss

Alfred Packer being first duly sworn says; that he is
the defendant in the above entitled cause, and that he makes this
affidavit in support of his motion for discharge filed in said
cause. Affiant says, that at the April Term 1883 of the District
Court held within and for the County of Hinsdale in this State, an
indictment was returned against him by the Grand Jury of said County,
charging him with the unlawful and felonious killing of one George
Noon, in said County in the month of March A. D. 1874.

That affiant has never been arraigned or tried upon said
indictment, nor has there been any attempt on the part of the of-

15
ficers of the law to bring him to trial thereon. That the delay in bringing him to trial upon the said indictment has not happened on the application of affiant, and he has in no manner been the cause of the delay, nor has he in any manner contributed to the cause thereof.

219
That since the said indictment was returned against him as aforesaid, there have been five regular terms of the said District Court commenced and had within and for the County of Hinsdale exclusive of the term at which the said indictment was returned, and exclusive of the last April Term thereof A. D. 1886- namely, the August and April Terms A. D. 1884, the August Term A. D. 1883, and the April and September Terms A. D. 1885.

220
That during each and all of the said terms of Court the said action and indictment were pending against said defendant in said District Court of said County, and that at either of the said terms of the said Court, this affiant could have been tried upon the said indictment, and that during each and all of the said terms, the said District Court of Hinsdale County was a court of competent jurisdiction vested with the power and authority to try affiant upon the said indictment and possessed of exclusive jurisdiction in the premises. And affiant further says, that during all the period of time from April A. D. 1883 to the present time affiant has been committed to prison to answer to the charge contained in the said indictment in the manner following viz: That at the said April Term of said Court 1883, affiant was arraigned ~~for~~ upon another indictment wherein he was charged with the unlawful and felonious killing of one Israel Swan, and was tried upon the said indictment as for the crime of murder, and after that time and until about the month of October 1885, he was held and detained under sentence in said cause, by the officers of the law and denied bail, that at to wit, the April Term A. D. 1884 of the said District Court of Hinsdale County a capias was issued in this cause, and that since that time he has been held and detained in prison on both the said capias, as well as by virtue of the process of Court in said former case wherein he was charged with the unlawful and felonious killing of said Israel Swan and has ever since been and is now committed to prison without bail being unable to give the same.

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And affiant further says that the process of the Court in said former cause, as well as the cepias last issued were placed in the hands of the officer of the law for the purpose of holding and committing affiant to answer to the charge in the indictment in this cause, as well as to commit affiant to answer to the charge in each and both of the other causes named.

223 That since the said last name cepias was issued in April 1884, three terms of the said District Court have convened and passed exclusive of the said April Term thereof in 1884 and the last April Term thereof in 1886., namely the August Term in 1884 and the April and September Terms thereof in 1885. At which time the affiant could have been tried upon the said indictment and no attempt was made to bring him to trial.

Subscribed and sworn to : A G Packer
before me this 21th day :
of July A. D. 1886
John H McCormick Clerk

(Indorsement)

No. 240 The District Court of Gunnison County.
The People Plaintiff vs. Alfred Packer Defendant
Motion & Affidavit

Filed July 21st 1886, John H McCormick Clerk.

224 Brown & Sapp Attorney for Deft

George Tracy,
Stephen A. Dole
James Downer
Clair Smith
John McMahon
H. C. Olney
Henry Finley

Otto Mears,
John O. Davis,
John McCoy
David Toll
McIntosh
H. Musgrave

State of Colorado :
 :ss
County of Hinsdale :

229 I, Arthur P. Cook, clerk of the District Court of Hinsdale County, in the State aforesaid, do hereby certify the above and foregoing to be a true, perfect and complete copy of the Indictment and list of witnesses in a certain cause now pending in said Court, on the Peoples side thereof, wherein the People of the State of Colorado is Plaintiff, and Alfred Packer is Defendant.

In Witness Whereof, I have hereunto set my hand and affixed the Seal of said Court, at Lake City, this 7th day of April A. D. 1888.

/SEAL/
District Court
Hinsdale Co. Colorado

Arthur P. Cook Clerk

(Indorsement)

#383 241 Certified Copy.
The People of the State of Colorado vs Alfred Packer.
Indictment for Murder.
A True Bill Geo Wilson- Foreman of the Grand Jury.

230 Filed May 24, 1888, Jno H McCormick Clerk.

No. 241. Transcript of Record from District Court of Hinsdale Co.

UNITED STATES OF AMERICA.

State of Colorado, :
Hinsdale County, : ss. In District Court, April Term, A. D. 1883

PLEAS before the Honorable Melville B. Gerry, Judge of the District Court of Hinsdale County, in and for the seventh Judicial District, in the State of Colorado, at a term thereof begun and held at the Court House, in the Town of Lake City in said County, on the First Monday (being the second day) of April in the year of our Lord one thousand eight hundred and eighty-three and of the Independence of the United States the one hundred and seventh.

Present, Honorable Hon Melville B. Gerry Judge.

Clair Smith Sheriff.

Attest, Arthur P. Cook Clerk. J.C. Bell Dist Atty pro tem.

April 2 When the following proceedings were had & recorded, to wit:

It appearing to the Court that the District Attorney of the 7th Judicial District is not present at this term of this court, the court appoints J. C. Bell, District Attorney pro tem,

April 7th This day appears at the bar of this Court the Grand Jury heretofore impaneled and sworn and present their certain bill of indictment against Alfred Packer for the murder of James Humphrey. Endorsed "A True Bill. Geo. Wilson Foreman of the Grand Jury."

State of Colorado - In the District Court within and for the County of Hinsdale.

McH The People of the State of Colorado:
11th Plaintiff
1886

vs. No 383

Alfred Packer Defendant

Before the Hon M B. Gerry, Judge of the seventh Judicial District of the state of Colorado, at chambers in Gunnison in said District.

And now on this day before the Judge of said District Court, at chambers, at Gunnison, the petition of Alfred Packer the defendant in the above entitled cause, for a change of venue in said cause coming on to be heard, the people being represented by H. M. Hogg District Attorney, and the defendant being present in person and by Brown & Sapp, his attorneys, the petition of the said defendant was argued by the respective counsel for the people and the defendant, and was submitted to the said Judge, and the said Judge after due examination of the same found the same to be true,

and sufficient in law as well, on account of the prejudice of the said Judge as of the prejudice of the inhabitants of said Hinsdale County, and it is therefore ordered and adjudged, that the venue of the said cause be changed from the said County of Hinsdale to the County of Gunnison in the said Judicial District.

234 And it is further ordered, that in the event no Judge of any other Judicial District of said state, can be procured to hear and try the said cause, in said Gunnison County, then the venue of the said cause shall be changed to some county of another Judicial District of said state, to be hereafter designated by the District Court of said Gunnison County, or the Judge thereof in vacation.

And it is ordered that the clerk of the District Court of Hinsdale County, make a full transcript of the record and proceedings in the said cause, and of the defendants petition, and of this order, and transmit the same, together with all papers filed in said cause, including the indictment &c, to the Clerk of the District Court of said Gunnison County.

235 And it is further ordered, that any motions filed in said cause, by defendant, shall be filed on or before the 19th day of July A. D. 1886.

Done at chambers in Gunnison on this 9th day of March
A D 1886

M. B. Gerry District Judge.

State of Colorado :
 :ss.
Hinsdale County :

236 I Thomas Shanly Clerk of the District Court of the seventh Judicial District in and for said County in said state, do hereby certify the foregoing to be a full and correct copy of the Court order changing the venue of the above entitled cause from Hinsdale County to Gunnison County in said State, as the same appears of record in the Court Journal kept in my office.

Witness my hand and the Seal of said Court at Lake City in said County this 6th day of April A D 1886.

/SEAL/
District Court
Hinsdale Co. Colorado.

Thos Shanly, Clerk.

State of Colorado - In the District Court within and for the
County of Hinsdale.

237
Mo. The People of the state of Colorado:
11th Plaintiff
1888

vs

No 383.

Alfred Packer Defendant

To the Hon M. B. Gerry Judge of the District Court of the 7th Ju-
dicial District of the ~~said~~ state of Colorado, at chambers in the
town of Gunnison in said District.

238
Your Petitioner Alfred Packer, the defendant in the above
entitled cause, respectfully shows to your Honor and alleges,
That at the April term A D 1888, of the District Court within and
for the County of Hinsdale state of Colorado, an indictment was
returned against him by the Grand Jury of said County in which
indictment he was and is charged with the felonious killing of one
James Humphrey in said County on the 1st day of March A. D. 1874.
And that at said term of said court, he was arraigned upon said
indictment and pleaded not guilty thereto. That at said term of
said Court the Grand Jury of said Court, also returned against pe-
titioner four other indictments, in each of which he was and is
charged with the felonious killing of a person therein named on
the said 1st day of March A D 1874, and in one of which he was
charged with the felonious killing of one Israel Swan, on the said
day and in the County aforesaid.

239
That at the said term of said court he was arraigned on
said indictment charging him with the felonious killing of the said
Israel Swan, and pleaded not guilty thereto, and that thereupon at
the said term of said Court he was by the said Court put upon his
trial upon the said last named indictment as for the said murder
of the said Israel Swan, and that such illegal proceedings in said
cause were subsequently and at said term of said Court had, as
that he petitioner was tried by a Jury, and the said Jury returned
into court an alleged verdict illegally finding the petitioner
guilty of murder, whereas he was not guilty nor proven guilty of
any such offense, nor was there any law authorizing his prosecution
for a conviction of said supposed offense.

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The petitioner further shows and alleges, that while he is entirely innocent of the crime charged in said indictment last named, or charged in any or either of said indictments, yet he fears and verily believes that he cannot receive a fair trial in said District Court of Hinsdale County, for the reasons, facts and causes following ~~xxxxx~~ viz:

241 That he petitioner shortly before his indictment in said County of Hinsdale, was apprehended and taken to the said County for trial on the charge of feloniously killing of the persons named in the said several indictments. That the people of said County were so prejudiced and incensed against him, that it was almost impossible for the Officers of the law to prevent his being murdered at the hands of the citizens and inhabitants of said County. That by reason of rumors which had long been rife among the people who lived in the Country surrounding the Scene of the alleged Homicides with which the petitioner is charged in said several indictments, almost without exception had been carried to the conclusion in their minds, that petitioner had not only killed the persons named in said several indictments, including the said 242 James Humphrey for their money, but from a craving and vicious desire for human flesh and blood, had eaten them up. That these rumors groundless in fact, but harrowing in detail, and calculated to excite to the highest pitch the prejudice and enmity of all persons possessing human sympathy had come to be regarded as a veritable legend by the inhabitants of said Hinsdale County. That by reason of the prejudice engendered by rumors shortly after the year 1874, and increased by subsequent rumors, and rumors in apparent confirmation of the former rumors, Honorable and conscientious inhabitants of said County had come to a fixed opinion and belief in their minds, 243 that petitioner had in a most horrible and atrocious manner possible, murdered the said James Humphrey and other persons mentioned in the said several indictments, and that was a fixed ~~xxxxx~~ opinion shared in by all of the inhabitants of said County, and so strong has that impression and opinion grown among the inhabitants of said County that that it would be difficult if not impossible to find a single person in said County who has not a fixed opinion that petitioner

is guilty of the charges preferred by each and all of said indictments.

244 Your petitioner further says that after his trial in April 1883, of said Court in said County, the prejudice against him on the part of the inhabitants of said County was so bitter and so apparent that the officers of the law, including the Judge of said District Court, deemed it absolutely necessary to remove the petitioner to the County Jail of Gunnison County in order to prevent his being mobbed and murdered at the hands of the inhabitants of said Hinsdale County, and petitioner verily believes that he was removed to said County Jail of Gunnison County at the instance of the Judge of said Court, to prevent mob violence on the part of the inhabitants of said County.

245 And petitioner further says that when he was removed from the said County of Hinsdale to the County of Gunnison, the officers having him in charge, in order to avoid mob violence did not allow it to be publicly known that he would be removed, but kept the strictly secret, deeming it absolutely necessary so to do, in order to avoid mob violence at the hands of the citizens and inhabitants of said County, and as a further precaution against mob violence removed him from said Hinsdale County in the night time to avoid detection.

246 Petitioner further says that during the said April term 1883, of said Court in said County and while petitioner was in the charge of the Sheriff of said county and awaiting his trial on said indictments, and after the trial had as aforesaid, severe threats were frequently made openly and publicly, by inhabitants of said County, that they would hang petitioner law or no law, and petitioner says that he would have been mobbed and murdered by the inhabitants of said county had it not been that the officers having him in ~~xxx~~ custody kept strong guards placed over him constantly, and petitioner further says that his alleged trial and conviction in said District Court in said County although illegal and void greatly intensified the feeling and prejudice against him on the part of the inhabitants of said County, and that the same has since then constantly increased and is still increasing, that since his alleged trial and conviction and especially since the trial verdict

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and Judgment against him was by the Supreme Court of the state ~~and~~ set aside and reversed, many of the inhabitants of Hinsdale County having become still further prejudiced against the petitioner have openly and publicly threatened, as an affiant is informed and believes, that if petitioner should ever be returned there for trial they would hang him law or no law, and petitioner further says that since his apprehension in March 1883, ~~xxxxix~~ the newspapers published in said County of Hinsdale, namely the Register and the Silver World have in many articles published in them severely condemned petitioner as a murderer, and declared him guilty of the murder of the several persons named in said several indictments, including the said James Humphrey.

That the said Silver World immediately after the reversal of said cause by the Supreme Court as aforesaid, published an article concerning petitioner in which it denounced him as a murderer and charged him with having committed murder in another state, ot wit: in the state of Kansas, and petitioner says that said newspapers and each of them had during the time of said several indictments and now have a wide and extensive circulation, among the inhabitants of said County, and much influence with them, and that said publications tended to and did greatly intensify the feeling and prejudice against petitioner on the part of the inhabitants of said County; and petitioner says that your Honor knows of the tenor and existence of many of the said publications, having read them. And petitioner says that since the day of his apprehension in March 1883, to the present time, the prejudice existing against him on the part of the inhabitants of said county has constantly increased and is still increasing that from that time until this he has been confined in Jail and has therefore been unable to obtain information of many facts which might be stated as he verily believes showing the prejudice against him on the part of the inhabitants of said County. That during the whole of said time he has had no money or means of any kind to pay the traveling expenses of any one to visit Hinsdale County and acquire knowledge of many facts which he verily believes do exist.

And petitioner says that he has a perfect defense as he

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verily believes and as he is informed by his counsel, if he can have a fair and impartial trial of said cause, and your petitioner further says that while he regards your Honor as an upright and conscientious Judge, the he fears and verily believes that are prejudiced against him, and that he cannot for that reason have a fair and impartial trial before you as Judge of said Court because he says, that at the time of his trial as aforesaid in the District Court of Hinsdale County and for many years prior thereto, you were a resident and inhabitant of said Hinsdale County, and had then and ~~xxx~~ now have many friends and acquaintances among the inhabitants of said County, and petitioner verily believes that it would have been almost if not quite impossible for you not to in some manner and to some extent share in the prejudice and belief of petitioners guilt existing on the part of your neighbors, friends and acquaintances among the inhabitants of the said County.

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And petitioner verily believes that you regard him as guilty of the offense charged in the said indictment, and while petitioner believes that your Honor would endeavor conscientiously to give him a fair and impartial trial in said cause and in the several matters connected therewith, yet being mindful of the frailty of all men, however Just, honest and conscientious he fears that your prejudice, if such you have, might unknown to yourself, swerve or bias your Judgment upon some important question involving petitioners rights and liberties for years.

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Your petitioner further says that if prior to his trial and conviction as hereinbefore stated you had formed no conclusion or opinion as to petitioners guilt or innocense, yet ~~he~~ verily believes that the evidence submitted at the trial and the verdict of the Jury greatly influenced your mind against him, and while your Honor can alone determine the existence or nonexistence of prejudice in your mind against petitioner, he sincerely prays that you may resolve in his favor any doubt you may have in the premises, and petitioner therefore prays that the venue of ~~six~~ said cause may be changed to some County in another Judicial District of this state, and for such other orders in the premises as may be Just and proper.

254
Brown & Sapp
Attys for Petitioner

Alfred Packer

State of Colorado :
:ss
Gunnison County :

255 Alfred Packer being by me first duly sworn says that he has heard read the foregoing petition by him subscribed and knows the contents thereof, and that the same is true of his own knowledge, excepting as to the matters therein stated ~~on his~~ to be on his information and belief, and as to those matters he believes it to be true.

Subscribed and sworn to :
before me this 8th day of:
March A D 1886. :

Alfred Packer

Marion S. Waller

Clerk of Dist Court in & for Gunnison
County Colorado.

/SEAL/

By J H McCormick Deputy.

State of Colorado :
:ss
Hinsdale County :

256 I Thomas Shanly Clerk of the District Court of the Seventh Judicial District of said state in and for Hinsdale County, do hereby certify the foregoing to be a true, perfect & complete ~~copy~~ copy of the Petition of Alfred Packer for change of venue in the Cause People vs Alfred Packer No 383, which was filed with said cause in my office Mch 11, 1886

Given under my hand and the seal of said Court at Lake City this 8th day of April A D 1886

/SEAL/
District Court
Hinsdale Co. Colorado

Thos Shanly Clerk

257 I Thomas Shanly Clerk of the District Court of Hinsdale County, in the State aforesaid, do hereby certify the above and foregoing to be a true, perfect and complete copy of the Record, order and petition in a certain cause No 383 pending in said Court, wherein The People of the State of Colorado were Plaintiffs and Alfred Packer was Defendant.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Court, at Lake City this 8th day of April

A.D. 1886
/SEAL/
District Court
Hinsdale Co. Colorado

Thos Shanly Clerk

(Indorsement)

241 No 383 Transcript of Proceedings in Suit.
District Court, Hinsdale County, April Term, 1886.
In the Matter of The People of the State of Colorado vs. Alfred Packer
Filed May 24, 1886, Jno H McCormick Clerk.

No. 241. Motion and Affidavit for Discharge.

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State of Colorado - In the District Court of the Seventh Judicial District, within and for the County of Gunnison.

Change of venue from Hinsdale County.

.....
The People of the State of Colorado, Plaintiff,

vs.

Alfred Packer, Defendant.
.....

No. 241

Indictment for Manslaughter.

And now comes Alfred Packer defendant in the above entitled cause, in his own proper person, and by Brown & Sapp, his attorneys, and prays the Court; that of the indictment in said cause he be discharged, and allowed to go hence without day- for the reasons set forth in defendants affidavit hereunto annexed and filed in support hereof, and for the ~~xxx~~ reasons appearing upon the record, and from the papers and proceedings in this cause.

A G Packer

Brown & Sapp

Attorneys for Defendant.

Defendant

State of Colorado - In the District Court of the Seventh Judicial District, within and for the County of Gunnison.

Change of venue from Hinsdale County.

.....
The People of the State of Colorado, Plaintiff.

vs

Alfred Packer, Defendant.
.....

No 241

Indictment for Manslaughter.

Gunnison County: ss.

Alfred Packer being first duly sworn says; that he is the defendant in the above entitled cause, and that he makes this affidavit in support of his motion for discharge filed in said cause. A fiant says, that at the April Term 1883 of the District Court held within and for the County of Hinsdale in this State, an indictment was returned against him by the Grand Jury of said County, charging him with the unlawful and felonious killing of one James Humphrey in said County in the month of March A. D. 1874.

That affiant has never been arraigned or tried upon said indictment, nor has there been any attempt on the part of the offi-

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cers of the law to bring him to trial thereon. That the delay in bringing him to trial upon the said indictment has not happened on the application of affiant, and he has in no manner been the cause of the delay, nor has he in any manner contributed to the cause thereof.

That since the said indictment was returned against him as aforesaid, there have been five regular terms of the said District Court commenced and had within and for the County of Hinsdale exclusive of the term at which the said indictment was returned, and exclusive of the last April Term thereof A. D. 1885—namely, the August and April Terms A. D. 1884, the August Term A. D. 1883 and the April and September Terms A. D. 1885.

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That during each and all of the said terms of Court the said action and indictment were pending against said defendant in said District Court of said County, and that at either of the said terms of the said Court, this affiant could have been tried upon the said indictment, and that during each and all of the said terms, the said District Court of Hinsdale County was a court of competent jurisdiction vest with the power and authority to try affiant on the said indictment and possessed of exclusive jurisdiction in the premises. And affiant further says, that during all the period of time from April A. D. 1883 to the present time affiant has been committed to prison to answer to the charge contained in the said indictment in the manner following viz: That at the said April Term of said Court 1883, affiant was arraigned upon another indictment wherein he was charged with the unlawful and felonious killing of one Israel Swan, and was tried upon the said indictment as for the crime of murder, and after that time and until about the month of October 1885, he was held and detained under sentence in said cause, by the officers of the law and denied bail, that at to wit, the April Term A. D. 1884 of the said District Court of Hinsdale County a capias was issued in another cause in the said Court, wherein the affiant was charged with the unlawful killing of one George Noon and that since that time he has been held and detained in prison on both the said capias, as well as by virtue of the process of Court in said former case wherein he was charged

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with the unlawful and felonious killing of said Israel Swan, and has ever since been and is now committed to prison without bail, being unable to give the same.

265 And affiant further says that the process of the Court in said former cause, as well as the capias last issued were placed in the hands of the officers of the law for the purpose of holding and committing affiant to answer to the charge in the indictment in this cause as well as to commit affiant to answer to the charge in each and both of the other causes named, and which rendered wholly unnecessary the issuance of any capias or any other authority to the officers to hold and commit affiant to answer to the charge in this cause.

266 That since the said last name capias was issued in April 1884, three terms of the said District Court have commenced and passed exclusive of the said April Term thereof in 1884 and the last April Term thereof in 1886., namely the August Term in 1884 and the April and September Terms thereof in 1885. at which time the affiant could have been tried upon the said indictment, and no attempt was made to bring him to trial.

Subscribed and sworn to : A C Packer
before me this 21st day of
July A D 1886. :
John H McCormick Clerk

(Indorsement)

No. 241 The District Court of Gunnison County.
The People Plaintiff vs. Alfred Packer Defendant
Motion & Affidavit

Filed July 21st 1886. John H McCormick Clerk.

267 Brown & Sapp Attorney for Deft

Record in District Court of Gunnison County,

DISTRICT COURT RECORD,

Sixth day July Term, A. D. 1886; July 17th A. D. 1886.

BE IT REMEMBERED that among the proceedings in said Court had and entered of record on the day last aforesaid, appears the following, to-wit:

In the District Court of the Seventh Judicial District of the State of Colorado sitting in and for the County of Gunnison On this Saturday morning July 17th 1886 Court opened at 9 O'clock, pursuant to adjournment this being the sixth day of this regular July 1886 Term

266 Present, Hon. M. B. Gerry Judge
H. M. Hogg, Esq. District Attorney
C. W. Shores Esq. Sheriff
John H. McCormick Clerk

No The People of the State of Colorado:
237. vs :
Alfred Packer :

Now come the said People by H. M. Hogg, District Attorney. Also comes the defendant by his Counsel Thomas C. Brown Upon application of said defendant it is ordered that the time heretofore allowed for filing any dilatory motions in this cause be and the same is hereby extended until Wednesday Morning next.

No The People of the State of Colorado:
238. vs :
Alfred Packer :

267 Now come the said People by H. M. Hogg, District Attorney. Also comes the defendant by his Counsel Thomas C. Brown, Upon Application of said defendant it is ordered that the time heretofore allowed for filing any dilatory motions is hereby extended until Wednesday Morning next.

No The People of the State of Colorado:
239. vs :
Alfred Packer :

268 Now come the said People by H. M. Hogg, District Attorney Also comes the defendant by his Counsel Thomas C. Brown. Upon Application of said defendant, it is ordered that the time heretofore allowed for filing any dilatory motions is hereby extended until Wednesday morning next.

No The People of the State of Colorado:
240 vs :
Alfred Packer :

Now come the said People by H. M. Hogg., District Attorney. Also comes the defendant by his Counsel Thomas C. Brown. Upon Application of said defendant, it is ordered that the time heretofore allowed for filing any dilatory motions is hereby extended until Wednesday morning next.

No The People of the State of Colorado:
241. vs :
Alfred Packer :

269 Now come the said People by H. M. Hogg, District Attorney. Also comes the defendant by his Counsel Thomas C. Brown. Upon Application of said defendant, it is ordered that the time heretofore allowed for filing any dilatory motions is hereby extended until Wednesday morning next.

DISTRICT COURT RECORD,

Seventh day July Term, A.D. 1886; July 19th A.D. 1888.

State of Colorado :
: ss In the District Court of said County.
Gunnison County :

To Hon. William Harrison
Judge of the District Court of the 4th Judicial District
of said State.

270 I, M B Gerry, as Judge of the District Court of the
7th Judicial District of said State, do hereby request you to hear,
try and determine the following cases, now pending and undetermined
in said Court, viz;

The case of The People of the State of Colorado vs
Frank Mason, now pending in said Court on change of Venue from the
District Court of Montrose County,

Also the case of The People of the State of Colorado,
vs. Alfred Packer, pending in said Court on change of Venue from
Hinsdale County.

Dated this 19th day of July A D 1888.

271 M.B. Gerry

Judge of the District Court of
the Seventh Judicial District
of the State of Colorado.

DISTRICT COURT RECORD,

Eighth day July Term, A.D.1886; July 20th A.D.1886.

BE IT REMEMBERED that among the proceedings in said Court had and entered of record on the day last aforesaid, appears the following, to-wit:

Upon the conclusion of the above proceedings the Hon M. B. Gerry Judge, vacates the Bench and Now comes Hon. William Harrison Judge of the 4th Judicial District of the state of Colorado and occupies the Bench in pursuance to and for the purposes expressed in the request heretofore filed and entered of record.

272 Whereupon the following proceedings were had and entered of record, to wit:

No The People of the State of Colorado:
237 vs :
 Alfred Packer :

Now comes the said People by H. M. Hogg, District Attorney and J. W. Mills Esq. also comes the defendant as well in his own proper person as by his Counsel Messrs Brown & Sapp and the motion of said defendant for his discharge in this cause coming on to be heard, and after hearing the argument of Counsel, said motion being submitted to the Court for decision, the Court reserves its Opinion and takes said motion under advisement.

273 No The People of the State of Colorado:
238. vs :
 Alfred Packer :

Now comes the said People by H M. Hogg, District Attorney and J. W. Mills Esq. also comes the defendant as well in his own proper person as by his Counsel Messrs Brown & Sapp, and the motion of said defendant for his discharge in this cause coming on to be heard, and after hearing the argument of Counsel, said motion being submitted to the Court for decision, the Court reserves its Opinion and takes said motion under advisement.

No 239. The People of the State of Colorado:
vs
Alfred Packer :

274 Now comes the said People by H M.Hogg, District Attorney and J. W. Mills Esq. also comes the defendant as well in his own proper person as by his Counsel Messrs Brown & Sapp, and the motion of said defendant for his discharge in this cause coming on to be heard and after hearing the argument of Counsel, said motion being submitted to the Court for decision, the Court reserves its opinion and takes said motion under advisement.

No 240. The People of the State of Colorado:
vs
Alfred Packer :

275 Now comes the said People by H M.Hogg, District Attorney and J. W. Mills Esq. also comes the defendant as well in his own proper person as by his Counsel Messrs Brown & Sapp, and the motion of said defendant for his discharge in this cause coming on to be heard. And after hearing the argument of Counsel, said motion being submitted to the Court for decision the Court reserves its opinion and takes said motion under advisement.

No 241 The People of the State of Colorado:
vs
Alfred Packer :

276 Now comes the said People by H M.Hogg, District Attorney and J. W. Mills, Esq. also comes the defendant as well in his own proper person as by his Counsel Messrs Brown & Sapp and the motion of said defendant for his discharge in this cause coming on to be heard, and after hearing the Argument of Counsel, said motion being submitted to the Court for decision, the Court reserves its opinion and takes said motion under advisement.

DISTRICT COURT RECORD,

Ninth day July Term, A.D.1886; July 21st A.D.1886.

BE IT REMEMBERED that among the proceedings in said Court had and entered of record on the day last aforesaid, appears the following to-wit:

276 Upon the conclusion of the above proceedings the Hon. M.B.Gerry Judge vacates the Bench and now comes Hon William Harrison, Judge of the 4th Judicial District of the State of Colorado and occupies the Bench in pursuance to and for the purposes expressed in the request heretofore filed and entered of record. Whereupon the following proceedings were had and entered of record to wit:

No 237 The People of the State of Colorado:
vs
Alfred Packer :

277 Now comes the said People by H M. Hogg, Esq. District Attorney, and J. W. Mills Esq. also comes the said defendant as well in his own proper person as by his Counsel Messrs Brown & Sapp, and the Court having heretofore taken under advisement the motion of the defendant herein for his discharge from custody in this cause and the Court being fully advised in the premises doth deny said motion, wherefore it is by the Court ordered that said motion for a discharge of defendant in this cause be and the same is hereby over ruled To which ruling of the Court defendant by Counsel excepts and on application defendant is allowed sixty days from and after this date in which to file his Bill of Exception herein

No 238. The People of the State of Colorado:
vs
Alfred Packer :

278 Now comes the said People by H M. Hogg Esq, District Attorney and J. W. Mills Esq. also comes the said defendant as well in his own proper person as by his Counsel Messrs Brown & Sapp, and the Court having heretofore taken under advisement the motion of the defendant herein for his discharge from custody in this cause and the Court being fully advised in the premises doth deny said motion, wherefore it is by the Court ordered that said motion for a

discharge of defendant in this cause be and the same is hereby over ruled To which ruling of the Court defendant by Counsel except and on application defendant is allowed sixty days from and after this date in which to file his Bill of Exception.

No The People of the State of Colorado:
239 vs
Alfred Packer :

279 Now comes the said People by H M.Hogg, Esq. District Attorney and J. W. Mills, Esq. also comes the said defendant as well in his own proper person as by his Counsel Messrs Brown & Sapp, and the Court having heretofore taken under advisement the motion of the defendant herein for his discharge from Custody in this cause and the Court being fully advised in the premises doth deny said motion wherefore it is by the Court ordered that said motion for a discharge of defendant in this cause be and the same is hereby over-ruled. To which ruling of the Court defendant by Counsel ex- cepts and on application defendant, is allowed sixth days from and after this date in which to file his Bill of Exceptions herein

No The People of the State of Colorado:
240. vs
Alfred Packer :

280 Now comes the said People by H M.Hogg Esq. District Attorney and J. W. Mills, Esq. also comes the said defendant as well in his own proper person as by his Counsel Messrs Brown & Sapp, and the Court having heretofore taken under advisement the motion of the defendant herein for his discharge from Custody in this cause and the Court being fully advised in the premises doth deny said motion wherefore it is by the Court ordered that said motion for a discharge of defendant in this cause be and the same is hereby over-ruled. To which ruling of the Court defendant by Counsel ex- cepts and on application defendant is allowed sixty days from and after this date in which to file his Bill of Exceptions herein.

241 The People of the State of Colorado:

vs
Alfred Packer

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:
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283 Now comes the said People by H M. Hogg, Esq. District Attorney and J. W. Mills, Esq. also comes the said defendant as well in his own proper person as by his Counsel Messrs Brown & Sapp, and the Court having heretofore taken under advisement the motion of the defendant herein for his discharge from Custody in this cause, and the Court being fully advised in the premises doth deny said motion, wherefore it is by the Court ordered that said motion for a discharge of defendant in this cause be and the same is hereby over-ruled. To which ruling of the Court defendant by Counsel excepts, and on application defendant is allowed sixty days from and after this date in which to file his Bill of Exceptions herein

DISTRICT COURT RECORD.

Eleventh day July Term, A.D.1886; July 23 A. D. 1886.

BE IT REMEMBERED that among the proceedings in said Court had and entered of record on the day last aforesaid, appears the following, to-wit:

284 State of Colorado : In the District Court of the Seventh Ju-
:ss dicial District of the State of Colorado
County of Gunnison : within and for the County of Gunnison.

285 On this day it appearing to the Hon. M. B. Gerry Judge of the Seventh Judicial District that a petition for writ of Habeas Corpus has been filed in this Court by Alfred Packer alleging that he is imprisoned and unlawfully restrained of his liberty by the Sheriff of Gunnison County and it also appearing to the said Judge that the matters complained of in said petition in the cause of the said petitioner's imprisonment and distraint pertains to five ~~xxxx~~ several criminal causes transferred by change of venue from the County of Hinsdale to the County of Gunnison and wherein the said petitioner is defendant and in which said criminal cause the said Hon. M. B. Gerry has heretofore by written request empowered the Hon William Harrison Judge of the Fourth Judicial District of said State to hear try and determine the same. Therefore the said Hon. M. B. Gerry Judge hereby requests and empowers the said Hon. William Harrison Judge as aforesaid to hear try and determine this Habeas Corpus proceeding, as the Judge of said Court.

286 Gunnison Colo
July 21st A.D.1886.

M. B Gerry
Judge of the 7th Judicial
District of the State of Col-
orado

In pursuance to the foregoing request Now comes The Hon-
orable William Harrison Judge of said 4th Judicial District of the
State of Colorado, and occupies the Bench as the sole presiding
Judge of this Court for the purposes mentioned in the foregoing
request, whereupon the following proceedings were had and entered
of record, to wit:

No 281. Alfred Packer Plaintiff :
vs :
C.W. Shores, Sheriff of Gunnison :
County, Defendant :

287 Now on this day the petition of Alfred Packer for writ of Habeas Corpus and for his release and discharge from imprisonment and the issuance of the writ being waived by written Stipulation & the return of the Sheriff of Gunnison County showing the cause of said detention being submitted to the Court upon the said petition and return of the said Sheriff and no proof except record evidence being offered by either plaintiff or defendant, the plaintiff Alfred Packer praying that upon the said petition and return he be released and discharged from imprisonment. The Court after due Examination of said petition and return and said records upon due consideration of the law and the premises finds that petitioner is 288 distrained of his liberty and imprisoned by defendant Sheriff of Gunnison County and that petitioner stands charged of the crime of Manslaughter in each and all of the five indictments referred to in plaintiff's petition, viz: One indictment for the unlawful and felonious killing of one Israel Swan on to wit: the first day of March A. D. 1874, one indictment for the unlawful and felonious killing of one George Noon, One for the unlawful and felonious killing of one Shannon Wilson Bell, one for the unlawful and felonious killing of one James Humphrey and one for the unlawful and felonious killing of one Frank Miller. The killing in each of said causes being alleged in the indictment to have occurred on the said 289 1st day of March A. D. 1874, in Hinsdale County Colorado & the Venue of said causes was changed to this Court in March 1888 upon the application of the prisoner. And the Court finds that said petitioner Alfred Packer, ought not to be discharged from either or any of the said indictments nor from his imprisonment or restraint, but should be held to answer to the said indictments and to each and All of them. And therefore the plaintiff's petition and his motion for discharge is by the Court denied. And it is ordered by the Court that a proper warrant of commitment issue herein empowering and requiring the defendant the Sheriff of Gunnison County to safely 290 keep in custody the said Alfred Packer to answer to the said several

indictments and until the further order of this Court according to the several warrants of Commitment therein And to the said findings ruling and judgment of the Court the petitioner by his Counsel duly excepts and prays an appeal therefrom to the Supreme Court which is granted and upon application he is allowed sixty days from this date within which to file bill of Exceptions, and appeal bond, the same to be approved by the clerk of this Court, and the penalty of such appeal bond is hereby fixed at the sum of-----

No 237. The People of the State of Colorado:
vs
Alfred Packer :

291
Now on this day comes the said People by H.M.Hogg, District Attorney, and J.W.Mills Esq. also comes the said defendant Alfred Packer as well in his own proper person as by his Counsel Messrs Brown & Sapp, and the petition of the defendant for a writ of Habeas Corpus and the answer and ~~the~~ return of the Sheriff of Gunnison County, having heretofore been submitted to the Court, and it appearing to the Court that the said defendant is held in custody by the said Sheriff by virtue of a certain Indictment of the Grand Jury of Hinsdale County, Colorado, wherein the said defendant is charged with the felonious and unlawful killing of one Israel Swan and it further appearing that this cause has been transferred to this Court of said Hinsdale County, therefore it is by the Court ordered that the said defendant be committed to the common Jail of Gunnison County unless he give Bail in the sum of two thousand dollars with good and sufficient sureties conditioned for his appearance from day to day during the present Term or until the further order of this Court.

292
No 238. The People of the State of Colorado:
vs
Alfred Packer :

293
Now on this day comes the said People by H M.Hogg District Attorney, and J.W.Mills, Esq. also comes the said defendant Alfred Packer as well in his own proper person as by his Counsel Messrs. Brown & Sapp, and the petition of the defendant for a

No. The People of the State of Colorado:
240. vs
Alfred Packer

297 Now on this day comes the said People by H M. Hogg,
District Attorney, and J.W. Mills Esq. also comes the said defendant
Alfred Packer as well in his own proper person as by his Counsel
Messrs. Brown & Sapp, and the petition of the defendant for a writ
of Habeas Corpus and the answer and return of the Sheriff of Gunnison
County having heretofore been submitted to the Court and it ap-
pearing to the Court that the said defendant is held in custody by
the said Sheriff by virtue of a certain Indictment of the Grand
Jury of Hinsdale County, Colorado, wherein the said defendant is
charged with the felonious and unlawful killing of one George Noon,
and it further appearing that this cause has been transferred to
298 this Court by change of Venue from the District Court of said
Hinsdale County therefore it is by the Court ordered that the said
defendant be committed to the common jail of Gunnison County unless
he give Bail in the sum of two thousand dollars with good and suf-
ficient sureties conditioned for his appearance from day to day
during the present Term or until the further order of this Court.

No. The People of the State of Colorado:
241. vs
Alfred Packer

299 Now on this day comes the said People by H M. Hogg,
District Attorney, and J.W. Mills Esq. also comes the said defend-
ant Alfred Packer as well in his own proper person as by his Counsel,
Messrs Brown & Sapp, and the petition of the defendant for a writ
of Habeas Corpus and the answer and return of the sheriff of Gunni-
son County, having heretofore been submitted to the Court, and it
appearing to the Court that the said defendant is held in custody
by the said Sheriff by virtue of a certain Indictment of the Grand
Jury of Hinsdale County Colorado wherein the said defendant is
charged with the felonious and unlawful killing of one James Hum-
phrey and it further appearing that this cause has been transferred
300 to this Court by change of Venue from the District Court of said
Hinsdale County, therefore it is by the Court ordered that the said
defendant be committed to the common jail of Gunnison County unless
he give Bail in the sum of two thousand dollars with good and suffi-
cient sureties conditioned for his appearance from day to day during
the present Term or until the further order of this Court.

DISTRICT COURT RECORD.

Eighteenth day July Term, A. D. 1888; July 31st A. D. 1888.

BE IT REMEMBERED that among the proceedings in said Court had and entered of record on the day last aforesaid, appears the following, to-wit:

301 Upon the conclusion of the foregoing proceedings the Hon. M. B. Gerry Judge, vacates the Bench, and now comes Hon. William Harrison, Judge of the 4th Judicial District of the State of Colorado, and occupies the Bench as the sole presiding Judge in pursuance to and for the purposes expressed in the request ~~of~~ heretofore on the 19 inst. filed and entered of record whereupon the following proceedings were had and entered of record to wit:

No The People of the State of Colorado:
237 vs
Alfred Packer :

302 Now comes the said People by H M. Hogg, District Attorney, and J. W. Mills Esq. also comes said defendant as well in his own proper person as by his Counsel Messrs Brown & Sapp. Thereupon defendant by Counsel submits to the Court for decision his motion for discharge from the indictment in this cause on the ground that said indictment shows that offense charged is barred by limitation of statute and the Court having considered said motion and being fully advised in the premises, over-rules said motion To which ruling of the Court the defendant by Counsel excepts.

No The People of the State of Colorado:
238. vs
Alfred Packer :

303 Now comes the said People by H M. Hogg, District Attorney and J. W. Mills Esq. also comes said defendant as well in his own proper person as by his Counsel Messrs Brown & Sapp. Thereupon defendant by Counsel submits to the Court for decision his motion for discharge from the indictment in this cause on the ground that said indictment shows that offense charged is barred by limitation of statute and the Court having considered said motion and being fully advised in the premises over-rules said motion To which ruling of the Court the defendant by Counsel excepts.

No 239. The People of the State of Colorado:
vs
Alfred Packer

Now comes the said People by H M. Hogg, District Attorney and J. W. Mills Esq. also comes said defendant as well in his own proper person as by his Counsel Messrs Brown & Sapp. Thereupon defendant by Counsel submits to the Court for decision his motion for discharge from the indictment in this cause on the ground that said indictment shows that offense charged is barred by limitation of statute and the Court having considered said motion and being fully advised in the premises, over-rules said motion To which ruling of the Court the defendant by Counsel excepts.

No 240. The People of the State of Colorado:
vs
Alfred Packer

Now comes the said People by H M. Hogg, District Attorney and J. W. Mills, Esq. also comes said defendant as well in his own proper person as by his Counsel Messrs Brown & Sapp. Thereupon defendant by Counsel submits to the Court for decision his motion for discharge from the indictment in this cause on the ground that said indictment shows that offense charged is barred by limitation of statute and the Court having considered said motion and being fully advised in the premises, over-rules said motion. To which ruling of the Court the defendant by Counsel excepts.

No 241. The People of the State of Colorado:
vs
Alfred Packer

Now comes the said People by H M. Hogg, District Attorney and J. W. Mills Esq. also comes said defendant as well in his own proper person as by his Counsel Messrs Brown & Sapp. Thereupon defendant by counsel submits to the Court for decision his motion for discharge from the indictment in this cause on the ground that said indictment shows that offense charged is barred by limitation of statute and the Court having considered said motion and being fully advised in the premises, over-rules said motion. To which ruling of the Court the defendant by Counsel excepts.

No 238. The People of the State of Colorado:
vs
Alfred Packer

Now comes the said People by H M. Hogg, District Attorney and J. W. Mills Esq. also comes the said defendant as well in his own proper person as by his Counsel Messrs Brown & Sapp Thereupon said defendant was by the District Attorney arraigned at the Bar of this Court upon the Indictment heretofore to wit: on the 6th day of April 1883, returned against him by the Grand Jury in and for the County of Hinsdale, State of Colorado, for the killing of Shannon Wilson Bell and for plea to said Indictment for himself says "not guilty".

No 239. The People of the State of Colorado:
vs
Alfred Packer

Now comes the said People by H.M.Hogg District Attorney and J.W.Mills Esq. also comes the said defendant as well in his own proper person as by his Counsel Messrs Brown & Sapp. Thereupon said defendant was by the District Attorney arraigned at the Bar of this Court upon the Indictment heretofore, to wit: on the 6th day of April 1883, returned against him by the Grand Jury in and for the County of Hinsdale, State of Colorado, for the killing of Frank Miller and for plea to said Indictment for himself says "not guilty".

No 240. The People of the State of Colorado:
vs
Alfred Packer.

Now comes the said People by H M.Hogg, District Attorney and J. W. Mills Esq. also comes the said defendant as well in his own proper person as by his Counsel Messrs Brown & Sapp. Thereupon said defendant was by the District Attorney arraigned at the Bar of this Court upon the Indictment heretofore, to wit: on the 6th day of April 1883, returned against him by the Grand Jury in and for the County of Hinsdale, State of Colorado, for the killing of George Noon and for plea to said Indictment for himself says "not guilty"

No 241. The People of the State of Colorado:
vs
Alfred Packer

3/2 Now comes the said People by H M. Hogg, District Attorney and J. W. Mills Esq. also comes the said defendant as well in his own proper person as by his Counsel Messrs Brown & Sapp. Thereupon said defendant was by the District Attorney arraigned at the Bar of this Court upon the Indictment heretofore to wit: on the 6th day of April 1883 returned against him by the Grand Jury in and for the County of Hinsdale State of Colorado for the killing of James Humphrey and for plea to said Indictment for himself says "not guilty"

The People of the State of Colorado:
vs
Alfred Packer

3/3 Now on this 31st day of July, A. D. 1888 being one of the Judicial days of the regular July term of the said court, the said defendant Alfred Packer being present in his own proper person and by his attorneys, Brown & Sapp, the said People by their Attorney H M. Hogg, Esq. and J. W. Mills, of counsel, move this Honorable Court to consolidate the several indictments pending in this Court against the said Alfred Packer pursuant to the provisions of section 257 of the Criminal Code, on page 358 of the General Statutes of Colorado (1883) to the granting of which said motion the said defendant by his attorneys interposes the objection that the proofs of the killing in the said several causes would vary and not be the same in each case; But the court being fully advised in the premises doth find that the said indictments severally charge the said Alfred Packer with one or more acts or transactions connected together and so charge him with one or more acts or transactions of the same class of crimes or offenses; which may be properly joined, and the said indictments severally charge against said Packer the homicide by him in the County of Hinsdale & state of Colorado on or about the 1st day of March A. D. 1874, of the following persons to wit: Israel Swan, Shannon Wilson Bell, Frank Miller, George Noon, and James Humphrey. It is therefore ordered that the said motion be sustained and that the said indictments be

3/4

AP

respectively filed in cases numbered on the Docket of this court as 237, 238, 239, 240, and 241, be consolidated forthwith for trial and that but one jury be empanelled which shall pass upon the guilt or innocence of the said defendant with respect to the crime charged in each of said indictments. To which ruling by the Court the said defendant by his Attorneys then and there in open court duly excepts

3/5

No The People of the State of Colorado:
237. vs :
 Alfred Packer :

It appearing to the Court that in selecting a jury to try the issues joined in the above entitled cause that the regular panel has been exhausted, it is therefore by the Court ordered, that a special Venire issue returnable forthwith, directed to the Sheriff of Gunnison County commanding him to summon twelve good and lawful men from the body of his County to serve as special Petit Jurors in this cause.

3/6

No The People of the State of Colorado:
237. vs :
 Alfred Packer :

Now comes the Sheriff of Gunnison County and returns into Court the special Venire heretofore issued for twelve special jurors in this cause with his return thereon as follows to wit: In pursuance of the mandate of the within writ, I have executed the same by summoning, as directed in the said writ the following named persons to wit: Reese Riley H.L.Davis, Thomas T.Higby, John T.Phillips, Barney McDonald, John Roberts, J.M.Murphy, F.J. Rockefeller, Lark Young, J.C.Pennington, Frank Angerman, Joseph Proffit.

3/7

No The People of the State of Colorado:
237. vs :
 Alfred Packer :

Upon the application of said defendant and it appearing to the Court from the affidavit of said defendant duly filed herein that O. D Loutzenhouser is an important and material witness in his defense and that he is not possessed of sufficient means to procure the attendance of said witness, It is therefore ordered

that the process of this Court issue directed to the Sheriff of Montrose County returnable forthwith commanding the attendance of said witness, and that the fees for the issuance of process the service of the same and the attendance of said witness be paid by the People in like manner as such services performed in behalf of the People are paid.

318
No The People of the State of Colorado:
237 vs :
 Alfred Packer :

It is ordered by the Court that a special Venire issue directed to the Sheriff of Gunnison County, returnable on Monday Morning next at 9 o'clock, commanding him to summon six good and lawful men from the body of his County to serve as special petit jurors in this cause.

No The People of the State of Colorado:
237. vs :
 Alfred Packer :

319
Now comes the said People by H M. Hogg, District Attorney and J. W. Mills, also comes said defendant in his own proper person in custody of the Sheriff, as well by his Counsel Messrs Brown & Sapp, and both the People and the defendant by counsel announcing as ready for trial the impanelling of a Jury to try said cause was begun and after the Regular panel of Jurors and the special Venire of twelve Jurors were exhausted the Sheriff was by the Court ordered to call talesmen, and the Jury still being incomplete the Jurors in the Box to wit: Charles A Cannon S.S. Duree, Lester York, Robert Gibbons, Levi Moffett, Herman Holloway, George Jayne, Wm Dickey, Reese Riley, Thomas T Higby and C.B. Crittendon, were excused until 9 o'clock on Monday Morning next to which time the further hearing and consideration of this cause is continued.

320

DISTRICT COURT RECORD.

Nineteenth day July Term, A.D.1886: August 2nd A.D.1886.

BE IT REMEMBERED that among the proceedings in said Court had and entered of record on the day last aforesaid, appears the following, to-wit:

321 Upon the conclusion of the foregoing proceedings the Hon. M.B.Garry Judge, vacates the Bench and now comes Hon. William Harrison, Judge of the 4th Judicial District of the State of Colorado and occupies the Bench as the sole presiding Judge in pursuance of to and for the purposes expressed in the request heretofore on the 19th inst filed and entered of record whereupon the following proceedings were had and entered of record to wit:

No The People of the State of Colorado:
237 vs
Alfred Packer :

322 Now comes the Sheriff of Gunnison County and returns into the Court the Open Venire for six special petit Jurors heretofore issued in this cause, with his return thereon as follows to wit. In pursuance of the mandate of the within writ, I have executed the same by summoning as directed in said writ the following named persons to wit: Patrick Duffy Lemuel Zugelder, W.E.Hill, J.J.Mills, Joseph Morgan, Lee Smith.

No The People of the State of Colorado:
237. vs
Alfred Packer :

It appearing to the Court that the special Venire for Petit Jurors heretofore issued in this cause, has been exhausted. It is by the Court ordered that an open Venire issue herein directed to the Sheriff of Gunnison County returnable forthwith commanding him to summon Ten good and lawful men from the body of his County to serve as special petit Jurors in this cause.

323 No The People of the State of Colorado:
237. vs
Alfred Packer :

Now comes the Sheriff of Gunnison County and returns into Court the Open Venire for ten petit Jurors heretofore issued in

this cause, with his return thereon as follows, to wit: "In pursu-
ance of the mandate of the within writ, I have executed the same by
summoning as directed in the said writ, the following named persons,
to wit: J.L.Mayall, Wm. Dougherty, J.D.Parsons, I.J.Davis, George
Johnson, L.C.Hendrickson, S.M.Tarkington, W.M.Livingstone, W.O.McCord
W.M.Taylor.

No 237. The People of the State of Colorado:
vs
Alfred Packer :

324

Now again comes the said People by H.M.Hogg, District
Attorney, and J. W. Mills Esq. also comes the defendent Alfred
Packer as well in his own proper person as by his Counsel, Messrs
Brown & Sapp, also comes the Jurors heretofore retained in this
cause to wit: Charles A. Cannon, S. S. Duree, Lester York, Robert
Gibbons, Levi Moffett, Herman Holloway, George Jayne, Wm. Buckey,
Reese Riley, Thomas T. Higby and C. B. Crittendon who upon being
called answer to their names respectively Thereupon the selection
of a Jury was resumed and after the examination of divers Jurors as
to competency, the following named Jurors were duly chosen selected
and sworn to try the issues joined in this cause to wit: Charles
A. Cannon, S. S. Duree, Lester York, Robert Gibbons, Levi Moffett,
Herman Holloway, George Jayne, Wm.Buckey, Reese Riley, Thomas T.
Higby, Joseph Morgan and W. M. Livingstone, whereupon Counsel made
their opening statements to the Jury, and several witnesses were
sworn and exaimned on behalf of the People and the adjourning hour
being reached the Jury under proper instructions from the Court re-
tired in charge of their sworn bailiff John T Crooks, who was in-
structed to keep the Jury together and return them into Court at
9 o'clock on tomorrow Morning to which time the further hearing
and consideration of this cause is continued.

325

326

DISTRICT COURT RECORD,

Twentieth day July Term, A.D.1888; Aug 3, A.D.1888.

BE IT REMEMBERED that among the proceedings in said Court had and entered of record on the day last aforesaid, appears the following, to-wit:

In the District Court of the Seventh Judicial District of the State of Colorado, sitting within and for the County of Gunnison on this Tuesday Morning, August 3rd A D 1888, being the 20th day of this Regular July Term.

Present: Hon. William Harrison, Presiding Judge,
H. M. Hogg Esq. District Attorney,
C. W. Shores, Sheriff.
John H McCormick, Clerk.

327
No The People of the State of Colorado:
237 vs :
Alfred Packer :

328
Now again comes the said People, by H.M.Hogg, District Attorney, and J. W. Mills, also comes the said defendant as well in his own ~~person~~ proper person as by his Counsel Messrs Brown & Sapp, also comes the Jury heretofore in this cause duly chosen selected and sworn, viz, Charles A Cannon, S.S.Duree, Lester York, Robert Gibbons, Levi Moffet, Herman Holloway, George Jayne, Wm Buckey, Reese Riley, Thomas T.Higby, Joseph Morgan, W.M.Livingstone who upon being called answered to their names respectively.- Thereupon the taking of evidence on behalf of the People was resumed and after the examination of several witnesses the People by Counsel gave notice of the closing of their evidence in chief.- Thereupon the defendant and O D Loutsenhizer were sworn and examined on behalf of defendant, and the defense closed, after which several witnesses were recalled by the People and examined in rebuttal and the adjourning hour being reached the Jury in charge of their sworn bailiff Jon Lees retired,- the bailiff being instructed to return the Jury into Court at 9 o'clock to-morrow morning to which time the further hearing and consideration of this cause is continued.

329

DISTRICT COURT RECORD,

Twenty-first day July Term, A.D.1886; Aug 4th A.D.1888.

BE IT REMEMBERED that among the proceedings in said Court had and entered of record on the day last aforesaid, appears the following, to-wit:

In the District Court of the Seventh Judicial District of the State of Colorado, sitting within and for the County of Gunnison, on this Wednesday Morning, August 4th 1888, Court opened at 9 o'clock pursuant to adjournment this being the 21st day of this regular July Term.

Present: Hon. William Harrison, Presiding Judge,
H.M.Hogg, District Attorney,
C.W.Shores, Sheriff,
John H McCormick, Clerk.

330
No The People of the State of Colorado:
237. vs :
Alfred Packer :

Now again comes the said People by H.M.Hogg, District Attorney, and J.W.Mills, Esq. also comes said defendant as well in his own proper person as by his Counsel Messrs Brown & Sapp, also comes the Jury heretofore duly chosen selected and sworn to try the issues in this cause, to wit: Charles A.Cannon, S.S.Duree, Lester York, Robert Gibbons, Levi Moffet, Herman Holloway, George Jayne, Wm Buckey, Reese Riley, Thomas T.Higby, Joseph Morgan, and W M Livingstone who upon being called answer to their names respectively.

331
Thereupon the evidence being all in the Jury were by the Court instructed as to the law governing the case, and the argument of Counsel was begun and after the conclusion of the same the Jury in charge of their sworn bailiff retired to consider of their verdict, and subsequently returned and presented to the Court their verdict, which is in words and figures as follows, to wit: "We the Jury find the defendant guilty of voluntary manslaughter as charged in the Indictment for the killing of Shannon Wilson Bell, and we further find defendant guilty of voluntary manslaughter as charged in the Indictment for the killing of George Noon, and we further find defendant guilty of voluntary manslaughter as charged in the indictment for the killing of Israel Swan, and we further find defendant guilty of voluntary manslaughter as charged in the indictment for the killing of Frank Miller, and we further find the defendant guilty of voluntary manslaughter as charged in the indictment for the killing of James Humphrey" Upon the reading of said verdict, and in answer to the interrogatory of the Court each Juror for himself says the same to be his verdict.- Thereupon the Jury were by the Court excused from the further consideration of this cause.- Defendant by Counsel excepted to the reception of said verdict.

Instructions given to the Jury.

.....
The People

against

Alfred Packer
.....

1.

The defendant is now being tried on five indictments. One charges the defendant with the killing of Shannon Wilson Bell; one charges the killing of George Noon; one charges the killing of Israel Swan; one charges the killing of Frank Miller; and one charges the killing of James Humphrey. Each of these homicides is alleged to have been committed by defendant unlawfully and feloniously in the then county of Hinsdale then in the territory of Colorado but now in the State of Colorado, on or about the first day of March A. D. 1874 & after the tenth day of February A. D. 1874. And in order to convict each of these allegations must be proved beyond a reasonable doubt as hereinafter explained.

Aug 4

Filed Aug 4 1886 John H McCormick Clerk.

2.

If then the jury believe from the evidence that defendant did intentionally and unlawfully, as charged in said indictments, kill the persons named in said indictments or any of them, then the jury should find the defendant guilty.

Filed Aug 4 1886 John H McCormick Clerk.

3.

Justifiable or lawful homicide is the killing of a human being in necessary self-defense or in defence of property or person against one who manifestly intends or endeavors by violence or surprise to commit a known felony such as murder, robbery or the like or to do the person killing great bodily harm. If then the jury believe from the evidence that Shannon Wilson Bell was the assailant and defendant had reasonable grounds to fear that said Bell would then and there take defendant's life or do him great bodily harm, and that defendant acting under the influence of such fears and not in a spirit of revenge, killed the said Bell, honestly & in good faith believing that such killing was necessary to save his own

life or to prevent his receiving great bodily harm at the hands of said Bell, then the jury should find defendant not guilty as to the indictment for the killing of said Bell. And if the jury believe from the evidence that defendant shot said Bell in self defence as above explained & that such shot was fatal, & that after firing such shot the defendant struck said Bell with a hatchet, then such stroke was no part of the killing & should not be considered by the jury, except in so far as it may explain the firing of the fatal shot.

Filed Aug 4 1886 John H McCormick Clerk.

4.

The several indictments in this case were found & filed in court in April A D 1883. The statute provides that the defendant cannot be found guilty if these indictments were not found & filed in court within three years next after the homicides. But the defendant is not entitled to the protection of this statute if he fled from justice before the expiration of three years after the homicides. If then the jury believe from the evidence that defendant did with intent to avoid prosecutions for the homicides alleged in the said indictments secrete himself from the officers of the law or leave the territory of Colorado with such intent, before the expiration of three years next after the death of said persons, & that he remained so absent or secreted until the end of said three years & was thereafter arrested and returned to this state for trial, then defendant is not entitled to the benefit & protection of said statute, & the fact that these prosecutions were not commenced within such time of three years is no defence..

Filed Aug 4 1886 John H McCormick Clerk.

5.

It is the duty of the jury to weigh with caution any statement or confession made by defendant, & to discover the motive which actuated him in making such statement or confession & to take into consideration his circumstances when making the same & his motives & reasons therefor. And it is for the jury to determine, upon consideration of all the evidence, what portion (if any) of such statement or confession is believable & what portion (if any) is unbelievable).

Filed Aug 4 1886 John H McCormick Clerk.

8.

339 The charges against defendant may be proved by circumstantial as well as by direct evidence. The law permits of either mode of proof; and also the charges may be proved in part by circumstantial & in part by direct evidence. Each kind of evidence should be weighed with great caution, and before finding defendant guilty the jury should be satisfied by the evidence of his guilt beyond a reasonable doubt; for if there is a reasonable doubt of such guilt he is entitled to acquittal. If then after a careful consideration of all the evidence in this case there is in the minds of the jury a reasonable doubt of defendant's guilt the verdict should be not guilty, but if after such consideration no such doubt so exists the verdict should be guilty. By "reasonable doubt" is not meant an imaginary doubt or a possibility of doubt, but a doubt fairly arising out of the testimony.

340 Filed Aug 4 1886 John H McCormick Clerk.

7.

341 The jury are the sole judges of the credibility of witnesses and of the weight to be given to the testimony of each. And in determining the weight to be given to the testimony of any witness, they are at liberty to take into consideration the interest (if any is shown) of such witness in the result of the case, any motive that the testimony may show him to have for testifying falsely, his manner on the witness stand, the probability or the improbability of his statements; the consistency or inconsistency of his statements, one with the other; and all the circumstances proved in the case that may enlighten the jury as to whether such witness is telling the truth or not.

Filed Aug 4 1886 John H McCormick Clerk.

8.

The jury may, if the evidence so warrants, find the defendant guilty as to all the indictments, or not guilty as to all the indictments; or guilty as to some and not guilty as to others.

If you find defendant guilty as charged in the said several indictments the form of verdict should be: We the jury find defendant guilty of Voluntary Manslaughter as charged in the in-

dictment for the killing of Shannon Wilson Bell; and we further find
342 defendant guilty of Voluntary Manslaughter as charged in the indictment for the killing of George Noon; and we further find defendant guilty of Voluntary Manslaughter as charged in the indictment for the killing of Israel Swan; and we further find defendant guilty of Voluntary Manslaughter as charged in the indictment for the killing of Frank Miller; and we further find defendant guilty of Voluntary Manslaughter as charged in the indictment for the killing of James Humphrey.

If you find defendant not guilty as to all of said indictments, the form of your verdict should be: We the jury find defendant
343 not guilty as charged in the indictments.

If you find him guilty as to some and not guilty as to the other charges, you should so indicate in your verdict.

Filed Aug 4 1886 John H McCormick Clerk.

(Indorsement)

People vs Packer
Instructions given by the Court.

Filed Aug 4, 1886, John H McCormick Clerk.

Instructions asked by Defendant and refused.

State of Colorado -

In the District Court of the Seventh
Judicial District within and for the County
of Gunnison-

344
The People of the State of Col-
orado,

vs

Homicide.

Alfred Packer.
-

The defendant requests the Court to instruct the Jury as follows.

345 1st:- The law presumes every person charged with the com-
mission of crime innocent until proved guilty beyond a reasonable
doubt, and this presumption of innocence remains with him during
every stage of the trial. And where a criminal charge is to be
proved by circumstantial evidence, the proof must not only be con-
sistent with the guilt of the defendant, but inconsistent with any
other rational conclusion, before the jury will be authorized in
bringing a verdict of guilty against him.

2nd:- It is not sufficient to authorize a verdict of guilty
against the defendant, that a prima facie case has been made out
by the people, even if no evidence countervailing the evidence for
the people should have been introduced by the defendant, but the
evidence in support of the indictment must be of such force and
carry such conviction to your minds, even without the consideration
of any opposing evidence, that you have no reasonable doubt of the
guilt of the defendant.

346 3rd:- When independent facts are relied upon to identify
the accused as the person who committed the crime charged, and taken
together are regarded as a sufficient basis for a presumption of
his guilt to a moral certainty or beyond a reasonable doubt, each
material independent fact or circumstance necessary to complete
such chain or series of independent facts tending to establish a
presumption of guilt, should be established to the same degree of
certainty as the main fact which these independent circumstances,
taken together, tend to establish.

347 That is to say, each independent fact in the chain or
series of facts relied upon, must be established to a moral cer-
tainty beyond a reasonable doubt and to the entire satisfaction of

the Jury, or they must acquit.

4th:- The Court instructs the Jury, that it is their duty to weigh with great caution any statement or confession made by the defendant, and to discover if possible the motive which actuated him in making such statement or confession, and his situation and surroundings when the same were made, and all the attendant circumstances, and then to determine the force and effect of the same, and the weight or credibility to be given to such statements.

349 5th:- The jury are instructed, that the several indictments in this case were found and returned into the District Court of Hinsdale County in the month of April A. D. 1883, and that the Statute of this State provides, that unless the homicides were committed within three years next before the finding of the indictments, the defendant cannot be prosecuted unless he has fled from justice - And you are further instructed, that as the evidence shows these several homicides charged in the indictments to have been committed in March or April A. D. 1874, therefore unless you find that the defendant has fled from justice since the date of the homicide as proven, then you must acquit the defendant; and in determining whether the defendant has fled from justice, you must determine what his intentions may have been for leaving the State, and in this particular, you are instructed, that the defendant in order that he should be fleeing from justice within the meaning of the law, must have wilfully intended to avoid the legal consequences of the homicide, for if he fled intending thereby to avoid mob violence or for any other purpose save and except to evade the legal consequences of the act, then he was not fleeing from justice and should be acquitted. ✓

350 6th:- Where a criminal charge is sought to be proved by circumstantial evidence, the proof must not only be direct, but also consistent with the guilt of the accused, and inconsistent with any other rational conclusion- it is not sufficient that the circumstances proved coincide with, account for, and therefore render probable the hypothesis sought to be established by the pro-

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secution, but they must exclude to a moral certainty every hypothesis except the single one of guilt.

Brown & Sapp.

Attorneys for the
defendant.

Defendants 7th request to charge.

351 The jury are instructed, that if they believe from the evidence that the defendant shot and killed Shannon Wilson Bell, and that he did so believing as a reasonable man, and in good faith at the time, that he was in imminent and immediate danger of being killed, or of receiving great bodily harm at the hands of said Bell - then he was justified in such killing and should be acquitted of the charge of unlawfully and feloniously killing the said Bell- And the jury are further instructed, that if they find, that after the fatal shot was fired, the defendant struck the said Bell with a hatchet, then such stroke constitutes no part of the killing and should only be considered by the Jury in so far as the same may explain the act of firing the fatal shot.

352 8th:- Justifiable Homicide is the killing of a human being in necessary self defense, or in the defense of habitation, property or person, against one who manifestly intends or endeavors by violence or surprise to commit a known felony, such as murder, Robbery, burglary or the like upon either person or property. A bare fear of any of these offenses is not sufficient to justify the killing, but it must appear that the circumstances were sufficient to excite the fears of a reasonable person; and that the slayer acted under the influence of such fears & not in a spirit of revenge. If then the jury believe from the evidence that the deceased Shannon Wilson Bell was the assailant- and that defendant had reasonable grounds to fear that said Bell would then and there take defendant's life or do him great bodily harm, and that defendant acting under the influence of such fears, and not in a spirit of revenge shot and killed said Bell- honestly and in good faith believing that such killing was necessary to save his own life, or to prevent his receiving great bodily harm at the hands of said Bell, then the Jury should find defendant not guilty, as to the indictment for killing said Shannon Wilson Bell.

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over

(On each page of the original Requests to Charge is stamped as follows: Filed Aug 4 1888 John H McCormick Clerk.) KT.

(Indorsement)

The District Court of Gunnison County.
The People Plaintiff vs. Alfred Packer, Defendant
Requests to Charge
Refused.
Defendant excepts
William Harrison Judge.
Brown & Sapp Attorneys for Deft.

Verdict of the Jury.

355 We the jury find defendant guilty of voluntary man slaughter as charged in the indictment for the killing of Shannon Wilson Bell, and we further find defendant guilty of voluntary man-slaughter as charged in the indictment for the killing of George Noon, and we further find defendant guilty of voluntary manslaughter as charged in the indictment for the killing of Israel Swan, and we further find defendant guilty of voluntary manslaughter as charged in the indictment for the killing of Frank Miller, and we further find the defendant guilty of voluntary manslaughter as charged in the indictment for the killing of James Humphrey.

356 S S. Duree foreman
J. L. Moffet.
Wm F. Buckey
Reese Riley
Joseph. Morgan
Lester. York.
Robt E Gibbons
Wm M. Livingston
George. Jayne
Thomas T Higby
Herman Holloway
Charles A. Cannon.

(Indorsement)

237
The People vs Alfred Packer
Verdict of the Jury

Filed in Dist Court of Gunnison County August 4, 1886,
John H McCormick Clerk.

Judgment and Sentence.

DISTRICT COURT RECORD,

Twenty-second day July Term, A.D.1886; Aug 5 A.D.1886.

357 BE IT REMEMBERED that among the proceedings in said Court had and entered of record on the day last aforesaid, appears the following, to-wit:

In the District Court of the Seventh Judicial District of the State of Colorado, sitting within and for the County of Gunnison, on this Thursday Morning August 5th 1886, Court opened at 9 o'clock pursuant to adjournment, this being the 22nd day of this regular July term.

Present: Hon. William Harrison, Judge,
H M Hogg, Esq. Dist. Atty.
C W Shores, Sheriff
John McCormick Clerk

358
No 237 The People of the State of Colorado:
vs :Consolidated cases Nos 237, to
Alfred Packer : 241 inclusive

359
360
This day come the said People by H M Hogg, District Attorney, and J W. Mills Esq. and the said defendant Alfred Packer as well in his own proper person as by his Counsel Messrs Brown & Sapp also come, and now neither the said defendant nor his Counsel for him saying anything further why the ~~xxxxxxx~~ judgment of the Court should not ~~be~~ now be pronounced against him on the verdict of guilty of the voluntary manslaughter of five separate human beings as follows, to wit: Israel Swan, Shannon Wilson Bell, George Noon, Frank Miller, and James Humphrey, which said verdict was heretofore rendered in this cause,- Therefore it is ordered and adjudged by the Court that the said defendant Alfred Packer be taken from the Bar of this Court to the common Jail of Gunnison County from whence he came and from thence by the Sheriff of said Gunnison County with all convenient speed to the penitentiary of this State at Canon City and be delivered to the Warden or Keeper of said Penitentiary, and the said Warden or Keeper is hereby required and commanded to take the body of the said ^{defendant} Alfred Packer, and confine him in said Penitentiary in safe and secure custody for and during One continuous term of forty years from and after the delivery hereof, which said term is divided and made more specific as follows, to wit: Eight years for the Voluntary manslaughter of Israel

Swan, Case #237, on the expiration of said term of Eight years, Eight years further for the Voluntary Manslaughter of Shannon Wilson Bell, Case #238, at the expiration of said last mentioned term, for the term of Eight years additional for the voluntary manslaughter of Frank Miller Case #239, at the expiration of said last mentioned term, for the period of eight years additional for the voluntary manslaughter of George Noon Case #240, at the expiration of said last mentioned term, for the period of Eight years additional years for the voluntary manslaughter of James Humphrey, Case #241, at hard labor, and that he be thereafter discharged.

William Harrison
Judge.

Penitentiary Minutes

In the District Court of the Seventh Judicial District of the State of Colorado, sitting within and for the County of Gunnison, of this Thursday Morning August 5th 1886, Court opened at 9 o'clock pursuant to adjournment, this being the 22nd day of this regular July Term.

Present: Hon. William Harrison, Judge,
H. M. Hogg, Esq. Dist. Atty.
C. W. Shores, Sheriff,
John H. McCormick, Clerk.

362 "Be It Remembered, Towit: On the day last aforesaid, the following among the proceedings were had and entered of record, in said Court, which proceedings are in the words and figures following, to-wit:

.....
The People of the State of Col-
orado,
vs.
Alfred Packer
.....
Consolidated Cases
Nos 237 to 241, inclusive.

363 This day come the said People by H. M. Hogg, District Attorney and J. W. Mills, Esq. and the said defendant Alfred Packer as well in his own proper person as by his Counsel Messrs Brown & Sapp also come, and now neither the said defendant nor his Counsel for him saying anything further why the judgment of the Court should not now be pronounced against him on the verdict of Guilty of the voluntary manslaughter of five separate human beings, as follows, towit: Israel Swan, Shannon Wilson Bell, George Noon, Frank Miller, and James Humphrey, which said verdict was heretofore rendered in this cause,

364 Therefore, it is ordered and adjudged by the Court that the said defendant Alfred Packer, be taken from the Bar of this Court to the common jail of Gunnison County from whence he came, and from thence by the Sheriff of Gunnison County with all convenient speed to the Penitentiary of this State at Canon City, and be delivered to the Warden or Keeper of said Penitentiary, and the said Warden or Keeper is hereby required and commanded to take the body of said defendant Alfred Packer and confine him in said Penitentiary in safe and secure custody for and during the continuous term of forty years from and after the delivery hereof, which said

term is divided and made more specific, as follows, to wit:

Eight years for the voluntary manslaughter of Israel Swan, Case No 237

On the expiration of said term of eight years, eight further years,

for the voluntary manslaughter of Shannon Wilson Bell, Case #238.

At the expiration of said last mentioned term for the term of eight

years additional for the voluntary manslaughter of Frank Miller,

Case #239. - At the expiration of said last mentioned term

for the period of eight years additional for the voluntary manslaughter

of George Noon, Case #240. - And at the expiration of

of said last mentioned term for the period of eight years additional

for the voluntary manslaughter of James Humphrey, case #241. - at

hard labor, and that he be thereafter discharged.

State of Colorado :
:ss.
Gunnison County :

I. John H. McCormick, Clerk of the District Court of the
County of Gunnison in the State aforesaid, do hereby certify that
the above and foregoing is a true copy of the final judgment and
sentence entered of record of said Court in the case of the People
of the State of Colorado, versus, Alfred Packer, as the same ap-
pears in the Records of said Court in my office.

In Witness Whereof, I herunto set my hand and affix
the Seal of said Court at Gunnison, Colorado, this 5th day of
August A D 1886.

/SEAL/ John H McCormick
District Court Clerk.
Gunnison County, Colo.

To the Sheriff of Gunnison County to execute.

State of Colorado :
Gunnison County :ss Aug 6th 1886
Executed by delivering the body of the within named de-
fendant to the Warden of the Penitentiary, at Canon City this 6th
day of Aug 1886
C W Shores Sheriff

(Indorsement)
District Court of Gunnison County
The People of the State of Colorado, versus, Alfred Packer.
Penitentiary Mittimus